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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 762a, 780a, 1533, 1605, 1792 of this title; title 5 section 8104; title 20 sec-

tions 107a, 107d-4, 1142, 1203a, 1206a, 2323, 2403, 3441, 4356, 6143; title 22 section 2102; title 26 section 51; title 38 sections 3117, 3118, 7462; title 42 sections 290dd, 1320b-6, 3013, 3026, 5116, 6008, 6024, 6042, 6705, 11701, 12117, 12592.

GENERAL PROVISIONS

§ 701. Findings; purpose; policy

(a) Findings

Congress finds that—

(1) millions of Americans have one or more physical or mental disabilities and the number of Americans with such disabilities is increasing;

(2) individuals with disabilities constitute one of the most disadvantaged groups in society;

(3) disability is a natural part of the human experience and in no way diminishes the right of individuals to—

- (A) live independently;
- (B) enjoy self-determination;
- (C) make choices;
- (D) contribute to society;
- (E) pursue meaningful careers; and
- (F) enjoy full inclusion and integration in the economic, political, social, cultural, and educational mainstream of American society;

(4) increased employment of individuals with disabilities can be achieved through the provision of individualized training, independent living services, educational and support services, and meaningful opportunities for employment in integrated work settings through the provision of reasonable accommodations;

(5) individuals with disabilities continually encounter various forms of discrimination in such critical areas as employment, housing, public accommodations, education, transportation, communication, recreation, institutionalization, health services, voting, and public services; and

(6) the goals of the Nation properly include the goal of providing individuals with disabilities with the tools necessary to—

- (A) make informed choices and decisions; and
- (B) achieve equality of opportunity, full inclusion and integration in society, employment, independent living, and economic and social self-sufficiency, for such individuals.

(b) Purpose

The purposes of this chapter are—

(1) to empower individuals with disabilities to maximize employment, economic self-sufficiency, independence, and inclusion and integration into society, through—

- (A) comprehensive and coordinated state-of-the-art programs of vocational rehabilitation;
- (B) independent living centers and services;
- (C) research;
- (D) training;
- (E) demonstration projects; and
- (F) the guarantee of equal opportunity; and

(2) to ensure that the Federal Government plays a leadership role in promoting the em-

ployment of individuals with disabilities, especially individuals with severe disabilities, and in assisting States and providers of services in fulfilling the aspirations of such individuals with disabilities for meaningful and gainful employment and independent living.

(c) Policy

It is the policy of the United States that all programs, projects, and activities receiving assistance under this chapter shall be carried out in a manner consistent with the principles of—

- (1) respect for individual dignity, personal responsibility, self-determination, and pursuit of meaningful careers, based on informed choice, of individuals with disabilities;
- (2) respect for the privacy, rights, and equal access (including the use of accessible formats), of the individuals;
- (3) inclusion, integration, and full participation of the individuals;
- (4) support for the involvement of a parent, a family member, a guardian, an advocate, or an authorized representative if an individual with a disability requests, desires, or needs such support; and
- (5) support for individual and systemic advocacy and community involvement.

(Pub. L. 93-112, § 2, Sept. 26, 1973, 87 Stat. 357; Pub. L. 95-602, title I, § 122(a)(1), Nov. 6, 1978, 92 Stat. 2984; Pub. L. 99-506, title I, § 101, Oct. 21, 1986, 100 Stat. 1808; Pub. L. 102-569, title I, § 101, Oct. 29, 1992, 106 Stat. 4346.)

CODIFICATION

The content of Pub. L. 93-516, Dec. 7, 1974, 88 Stat. 1617, including provisions thereof which amended various sections of this chapter and enacted provisions set out as notes under this section, was originally contained in H.R. 14225, 93rd Congress, Second Session, which was pocket-vetoed during the 31-day intrasession adjournment of the 93rd Congress for the Congressional elections in November, 1974.

Pursuant to an order of the United States District Court for the District of Columbia (*Kennedy v. Jones*, D.C.D.C. 1976, 412 F.Supp. 353), H.R. 14225 was deemed to have become law without the approval of the President on Nov. 21, 1974, and was given the designation Pub. L. 93-651. Therefore, for purposes of codification, this chapter should be deemed to have been amended by Pub. L. 93-651, Nov. 21, 1974, 89 Stat. 2-3, in exactly the same manner as it was amended by Pub. L. 93-516, Dec. 7, 1974, 88 Stat. 1617.

PRIOR PROVISIONS

Prior similar provisions were contained in former section 31 of this title.

AMENDMENTS

1992—Pub. L. 102-569 amended section generally. Prior to amendment, section read as follows: “The purpose of this chapter is to develop and implement, through research, training, services, and the guarantee of equal opportunity, comprehensive and coordinated programs of vocational rehabilitation and independent living, for individuals with handicaps in order to maximize their employability, independence, and integration into the workplace and the community.”

1986—Pub. L. 99-506 inserted “, for individuals with handicaps in order to maximize their employability, independence, and integration into the workplace and the community”.

1978—Pub. L. 95-602 substituted provision declaring that the purpose of this chapter is to develop and implement, through research, training, services, and

equal opportunity guarantee, comprehensive and coordinated programs of vocational rehabilitation and independent living for provision declaring the purpose of this chapter was to provide a statutory basis for the Rehabilitation Services Administration and to authorize a wide range of programs designed to improve rehabilitation methods, services, and facilities, increase the number and skill of trained personnel, and provide employment opportunities for the handicapped.

EFFECTIVE DATE OF 1992 AMENDMENT

Section 138 of title I of Pub. L. 102-569, as amended by Pub. L. 103-73, title I, § 102(3), Aug. 11, 1993, 107 Stat. 718, provided that:

“(a) EFFECTIVE DATE.—Except as provided in subsection (b), this title [enacting sections 718 to 718b, 725 to 728a, and 740 to 744 of this title, amending this section and sections 705 to 707, 709, 711 to 715, 717, 720 to 724, 730 to 732, 740, 741, 750, 761a to 762, 770, 772 to 776, 777a, 777b, 777d to 777f, 780, 781, 783, 791 to 794, 795, 795d, 795e, and 795h of this title, repealing section 752 of this title, enacting provisions set out as notes under section 712 of this title, and amending provisions set out as a note under this section] and the amendments made by this title shall take effect on the date of enactment of this Act [Oct. 29, 1992].

“(b) COMPLIANCE.—Each State agency subject to the provisions of title I of the Rehabilitation Act of 1973 [29 U.S.C. 720 et seq.] shall comply with the amendments made by this subtitle [subtitle B (§§ 121-138) of title I of Pub. L. 102-569, enacting sections 725 to 728a and 740 to 744 of this title, amending sections 705, 720 to 724, and 730 to 732 of this title, and repealing section 752 of this title], as soon as is practicable after the date of enactment of this Act [Oct. 29, 1992], consistent with the effective and efficient administration of the Rehabilitation Act of 1973 [29 U.S.C. 701 et seq.], but not later than October 1, 1993.”

EFFECTIVE DATE OF 1986 AMENDMENT

Section 1006 of Pub. L. 99-506 provided that: “Except as otherwise provided in this Act [see Short Title of 1986 Amendment note below], this Act shall take effect on the date of its enactment [Oct. 21, 1986].”

SHORT TITLE OF 1993 AMENDMENT

Pub. L. 103-73, § 1, Aug. 11, 1993, 107 Stat. 718, provided that: “This Act [enacting sections 753 and 753a of this title, amending sections 706, 718 to 718b, 721 to 723, 725, 730 to 732, 744, 761a, 762, 771a, 777, 777a, 777f, 783, 791, 792, 794e, 795f, 796, 796c, 796d to 796e-2, 796f to 796f-4, and 796k of this title, sections 1431, 4301 to 4305, 4331, 4332, 4351, 4353 to 4357, 4359, 4359a, and 4360 of Title 20, Education, and section 46 of Title 41, Public Contracts, enacting provisions set out as notes under section 725 of this title and section 4301 of Title 20, and amending provisions set out as a note under this section] may be cited as the ‘Rehabilitation Act Amendments of 1993’.”

SHORT TITLE OF 1992 AMENDMENT

Section 1(a) of Pub. L. 102-569 provided that: “This Act [see Tables for classification] may be cited as the ‘Rehabilitation Act Amendments of 1992’.”

SHORT TITLE OF 1991 AMENDMENT

Pub. L. 102-52, § 1, June 6, 1991, 105 Stat. 260, provided that: “This Act [amending sections 720, 732, 741, 761, 771, 772, 774, 775, 777, 777a, 777f, 785, 792, 795f, 795i, 795q, 796i, and 1904 of this title and section 1475 of Title 20, Education] may be cited as the ‘Rehabilitation Act Amendments of 1991’.”

SHORT TITLE OF 1986 AMENDMENT

Section 1(a) of Pub. L. 99-506 provided that: “This Act [enacting sections 716, 717, 752, 794d, 795j to 795q, and 796d-1 of this title and section 2000d-7 of Title 42, The Public Health and Welfare, amending this section and sections 702, 705, 706, 711 to 715, 720 to 724, 730 to 732, 740,

741, 750, 751, 760 to 761b, 762, 762a, 770 to 777b, 777f, 780, 781, 783, 785, 791 to 794, 794c, 795, 795d to 795i, 796a, 796b, 796d to 796i, and 1904 of this title, and section 155a of Title 36, Patriotic Societies and Observances, repealing section 751 of this title, and enacting provisions set out as notes under this section and sections 706, 730, 761a, and 795m of this title and section 1414 of Title 20, Education] may be cited as the 'Rehabilitation Act Amendments of 1986'."

SHORT TITLE OF 1984 AMENDMENT

Pub. L. 98-221, §1, Feb. 22, 1984, 98 Stat. 17, provided: "That this Act [enacting sections 780a and 1901 to 1906 of this title, amending sections 706, 712 to 714, 720 to 722, 730, 732, 741, 761 to 762a, 771, 772, 774, 775, 777, 777a, 777f, 780, 781, 783, 791, 792, 794c, 795a, 795c, 795f, 795g, 795i, 796e, and 796i of this title and sections 6001, 6012, 6033, 6061, and 6081 of Title 42, The Public Health and Welfare, repealing section 777c of this title, enacting provisions set out as a note under section 1901 of this title and amending provisions set out as a note under section 713 of this title] may be cited as the 'Rehabilitation Amendments of 1984'."

SHORT TITLE OF 1978 AMENDMENT

Section 1 of Pub. L. 95-602 provided that: "This Act [enacting sections 710 to 715, 751, 761a, 761b, 762a, 775, 777 to 777f, 780 to 785, 794a to 794c, 795 to 795i, and 796 to 796i of this title and section 6000 of Title 42, The Public Health and Welfare, amending this section, sections 702, 706, 709, 720 to 724, 730 to 732, 740, 741, 750, 760 to 762, 770 to 774, 776, and 792 to 794 of this title, section 1904 [now 3904] of Title 38, Veterans' Benefits, and sections 6001, 6008 to 6012, 6031 to 6033, 6061 to 6065, 6067, 6081, and 6862 of Title 42, repealing sections 764, 786, and 787 of this title and section 6007 of Title 42, omitting sections 6041 to 6043 of Title 42, enacting provisions set out as notes under sections 713 and 795 of this title and sections 6000 and 6001 of Title 42, and repealing a provision set out as a note under section 6001 of Title 42] may be cited as the 'Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978'."

SHORT TITLE OF 1976 AMENDMENT

Pub. L. 94-230, §1, Mar. 15, 1976, 90 Stat. 211, provided that: "This Act [amending sections 720, 732, 741, 761, 771, 772, 774, 775, 783, 785, and 792 of this title and enacting provisions set out as a note under section 720 of this title] may be cited as the 'Rehabilitation Act Extension of 1976'."

SHORT TITLE OF 1974 AMENDMENT

Pub. L. 93-516, title I, §100, Dec. 7, 1974, 88 Stat. 1617, provided that: "This title [amending sections 702, 706, 720 to 722, 732, 741, 750, 761, 762, 771, 772, 774 to 776, 783, 785, and 792 of this title and enacting provisions set out as a note under section 702 of this title] shall be known as the 'Rehabilitation Act Amendments of 1974'."

An identical provision is contained in Pub. L. 93-651, title I, §100, Nov. 21, 1974, 89 Stat. 2-3. See Codification note above.

SHORT TITLE

Section 1 of Pub. L. 93-112 provided that Pub. L. 93-112, which enacted this chapter and repealed sections 31 to 41c and 42-1 to 42b of this title, may be cited as the "Rehabilitation Act of 1973".

Section 601 of title VI of Pub. L. 93-112, as added by Pub. L. 95-602, title II, §201, Nov. 6, 1978, 92 Stat. 2989, and amended by Pub. L. 102-569, title I, §102(p)(34), Oct. 29, 1992, 106 Stat. 4360, provided that: "This title [adding subchapter VI of this chapter] may be cited as the 'Employment Opportunities for Handicapped Individuals Act'."

[Section 102(p)(34) of Pub. L. 102-569 which directed the substitution of "Disabilities" for "Handicaps" in section 601 of Pub. L. 93-112, set out above, could not be executed because the word "Handicaps" did not appear.]

WHITE HOUSE CONFERENCE ON HANDICAPPED INDIVIDUALS

Pub. L. 93-516, title III, Dec. 7, 1974, 88 Stat. 1631, as amended by Pub. L. 94-224, §§1, 2, Feb. 27, 1976, 90 Stat. 201, authorized the President to call a White House Conference on Handicapped Individuals not later than Dec. 7, 1977, to develop recommendations and stimulate a national assessment of problems, and solutions to such problems, facing individuals with handicaps, and established a National Planning Advisory Council to provide guidance and planning for the Conference which Council would cease to exist 120 days after submission of a final report to the President, such report to be submitted not later than 120 days following the date on which the Conference was called.

Identical provisions are contained in Pub. L. 93-651, title III, Nov. 21, 1974, 89 Stat. 2-16. See Codification note above.

EX. ORD. NO. 11758. DELEGATION OF AUTHORITY OF THE PRESIDENT

Ex. Ord. No. 11758, Jan. 15, 1974, 39 F.R. 2075, as amended by Ex. Ord. No. 11784, May 30, 1974, 39 F.R. 19443; Ex. Ord. No. 11867, June 19, 1975, 40 F.R. 26253; Ex. Ord. No. 12608, Sept. 9, 1987, 52 F.R. 34617, provided:

By virtue of the authority vested in me by section 301 of title 3 of the United States Code and as President of the United States of America, it is hereby ordered as follows:

SECTION 1. The Director of the Office of Management and Budget is hereby designated and empowered to exercise, without approval, ratification, or other action of the President, the authority of the President under section 500(a) of the Rehabilitation Act of 1973 (87 Stat. 390, 29 U.S.C. 790) with respect to the transfer of unexpended appropriations.

SEC. 2. The Secretary of Labor is hereby designated and empowered to exercise, without approval, ratification, or other action of the President, the authority of the President (1) under section 503(a) of the Rehabilitation Act of 1973 [29 U.S.C. 793(a)] to prescribe regulations, after consultation with the Secretary of Defense and the Administrator of General Services, with respect to the employment of qualified handicapped individuals under Federal procurement contracts, and (2) under section 503(c) of that act [29 U.S.C. 793(c)] with respect to prescribing, by regulation, guidelines for waiving the requirements of section 503 of the act [29 U.S.C. 793]. Changes in any regulations prescribed by the Secretary pursuant to the preceding sentence shall be made only after consultation with the Secretary of Defense and the Administrator of General Services.

SEC. 3. The head of a Federal agency may, in conformity with the provisions of section 503(c) of the Rehabilitation Act of 1973 [29 U.S.C. 793(c)], and regulations issued by the Secretary of Labor pursuant to section 2 of this order, exempt any contract and, following consultation with the Secretary of Labor, any class of contracts, from the requirements of section 503 of the act [29 U.S.C. 793].

SEC. 4. The Federal Acquisition Regulations and, to the extent necessary, any supplemental or comparable regulation issued by any agency of the executive branch shall, following consultation with the Secretary of Labor, be amended to require, as a condition of entering into, renewing or extending any contract subject to the provisions of section 503 of the Rehabilitation Act of 1973 [29 U.S.C. 793], inclusion of a provision requiring compliance with that section and regulations issued by the Secretary pursuant to section 2 of this order.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 706 of this title.

§ 702. Rehabilitation Services Administration

(a) Establishment; appointment and qualification of Commissioner; principal officer and principal agency; administrative responsibility; delegation of authority; guiding policies

There is established in the Office of the Secretary a Rehabilitation Services Administration which shall be headed by a Commissioner (hereinafter in this chapter referred to as the "Commissioner") appointed by the President by and with the advice and consent of the Senate. Except for subchapters IV and V and part A of subchapter VI of this chapter and as otherwise specifically provided in this chapter, such Administration shall be the principal agency, and the Commissioner shall be the principal officer, of such Department for carrying out this chapter. The Commissioner shall be an individual with substantial experience in rehabilitation and in rehabilitation program management. In the performance of the functions of the office, the Commissioner shall be directly responsible to the Secretary or to the Under Secretary or an appropriate Assistant Secretary of such Department, as designated by the Secretary. The functions of the Commissioner shall not be delegated to any officer not directly responsible, both with respect to program operation and administration, to the Commissioner. Any reference in this chapter to duties to be carried out by the Commissioner shall be considered to be a reference to duties to be carried out by the Secretary acting through the Commissioner. In carrying out any of the functions of the office under this chapter, the Commissioner shall be guided by general policies of the National Council on Disability established under subchapter IV of this chapter.

(b) Expenditure of funds only for programs, personnel, and administration of programs carried out under this chapter

The Secretary shall take whatever action is necessary to insure that funds appropriated pursuant to this chapter, as well as unexpended appropriations for carrying out the Vocational Rehabilitation Act, are expended only for the programs, personnel, and administration of programs carried out under this chapter.

(c) Staffing requirements

The Secretary shall take such action as necessary to ensure that—

(1) the staffing of the Rehabilitation Services Administration shall be in sufficient numbers to meet program needs and at levels which will attract and maintain the most qualified personnel; and

(2) such staff includes individuals who have training and experience in the provision of rehabilitation services and that staff competencies meet professional standards.

(Pub. L. 93-112, § 3, Sept. 26, 1973, 87 Stat. 357; Pub. L. 93-516, title I, § 101(a), Dec. 7, 1974, 88 Stat. 1617; Pub. L. 93-651, title I, § 101(a), Nov. 21, 1974, 89 Stat. 2-3; Pub. L. 95-602, title I, § 122(a)(2), (3), Nov. 6, 1978, 92 Stat. 2984; Pub. L. 99-506, title I, § 102, title X, § 1001(a)(1), Oct. 21, 1986, 100 Stat. 1808, 1841; Pub. L. 100-630, title II, § 201(a), Nov. 7, 1988, 102 Stat. 3303.)

REFERENCES IN TEXT

The Vocational Rehabilitation Act, referred to in subsec. (b), is act June 2, 1920, ch. 219, 41 Stat. 735, which was classified generally to chapter 4 (§ 31 et seq.) of this title and was repealed by section 500(a) of the Rehabilitation Act of 1973, Pub. L. 93-112, Sept. 26, 1973, 87 Stat. 357. The Rehabilitation Act of 1973 is classified generally to this chapter. Section 500(a), which was classified to section 790 of this title, provided in part that references to the Vocational Rehabilitation Act in any other provision of law be deemed references to the Rehabilitation Act of 1973.

CODIFICATION

For history of Pub. L. 93-651, which enacted amendments identical to Pub. L. 93-516, see Codification note set out under section 701 of this title.

AMENDMENTS

1988—Subsec. (a). Pub. L. 100-630 substituted "National Council on Disability" for "National Council on the Handicapped".

1986—Subsec. (a). Pub. L. 99-506, § 1001(a)(1), which directed the substitution of "the functions of the office" for "his functions" in third and sixth sentences was executed to fourth and seventh sentences in view of amendment by section 102(a) of Pub. L. 99-506.

Pub. L. 99-506, § 102(a), which directed the insertion after second sentence of provision that the Commissioner shall be an individual with substantial experience in rehabilitation and in rehabilitation program management, was executed by inserting that provision after second sentence of subsec. (a) as the probable intent of Congress.

Subsec. (c). Pub. L. 99-506, § 102(b), added subsec. (c).

1978—Subsec. (a). Pub. L. 95-602, § 122(a)(2), inserted "and part A of subchapter VI of this chapter" after "subchapters IV and V of this chapter" and provision deeming any reference in this chapter to the duties carried out by the Commissioner to be a reference to the duties carried out by the Secretary through the Commissioner and requiring the Commissioner to be guided by the policies of the National Council on the Handicapped.

Subsecs. (b), (c). Pub. L. 95-602, § 122(a)(3), redesignated subsec. (c) as (b). Former subsec. (b), which required the Secretary, through coordination with appropriate programs in the Department of Health, Education, and Welfare and consultation with the National Science Foundation and National Academy of Science, to develop innovative methods of applying advanced medical, scientific, psychological, and social knowledge to solve rehabilitation problems, and made the Secretary responsible for establishment of rehabilitation engineering research centers, was struck out.

1974—Subsec. (a). Pub. L. 93-516 substantially reenacted existing provisions, and in subsec. (a) as so reenacted, substituted reference to Office of the Secretary for reference to the Department of Health, Education, and Welfare, inserted requirement that the appointment of Commissioner be approved by the Senate, inserted provisions that the Commissioner shall be the principal officer of the Department for carrying out provisions of this chapter, that the Commissioner shall be directly responsible to the Secretary, Under Secretary, or Assistant Secretary, as the case may be, and that the functions of the Commissioner shall not be delegated to any officer not directly responsible to the Commissioner both with respect to program operation and administration, and struck out provisions relating to procedure for delegation of functions of the Commissioner to other officers.

Pub. L. 93-651 made identical amendment as made by Pub. L. 93-516.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 101(b) of Pub. L. 93-651 provided that: "The amendment made by subsection (a) [amending this section] shall be effective sixty days after the date of enactment of this Act [Nov. 21, 1974]."

Section 101(b) of Pub. L. 93-516 provided that: "The amendment made by subsection (a) of this section [amending this section] shall be effective sixty days after the date of enactment of this Act [Dec. 7, 1974]."

TRANSFER OF FUNCTIONS

For transfer of functions and offices of Secretary and Department of Health, Education, and Welfare, including Rehabilitation Services Administration and Commissioner thereof, under this chapter to Secretary and Department of Education, and for delegation of certain functions of Secretary of Education under this chapter to Assistant Secretary for Special Education and Rehabilitative Services, see sections 3417 and 3441 of Title 20, Education.

ADDITIONAL PERSONNEL FOR OFFICE FOR THE BLIND AND VISUALLY HANDICAPPED

Section 208(a) of Pub. L. 93-516 provided that: "The Secretary of Health, Education, and Welfare [now Secretary of Education] is directed to assign to the Office for the Blind and Visually Handicapped of the Rehabilitation Services Administration of the Department of Health, Education, and Welfare [now Department of Education] ten additional full-time personnel (or their equivalent), five of whom shall be supportive personnel, to carry out duties related to the administration of the Randolph-Sheppard Act [section 107 et seq. of Title 20, Education]."

An identical provision is contained in section 208(a) of Pub. L. 93-651.

PREFERENCE TO BLIND IN SELECTING PERSONNEL

Section 208(c) of Pub. L. 93-516 provided that: "In selecting personnel to fill any position under this section [authorizing assignment of 11 additional full-time personnel to the Office for the Blind and Visually Handicapped of the Rehabilitation Service Administration of the Department of Health, Education, and Welfare under subsecs. (a) and (b) of Pub. L. 93-516], the Secretary of Health, Education, and Welfare [now Secretary of Education] shall give preference to blind individuals."

An identical provision is contained in section 208(c) of Pub. L. 93-651.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 761a of this title.

§ 703. Advance funding

(a) For the purpose of affording adequate notice of funding available under this chapter, appropriations under this chapter are authorized to be included in the appropriation Act for the fiscal year preceding the fiscal year for which they are available for obligation.

(b) In order to effect a transition to the advance funding method of timing appropriation action, the authority provided by subsection (a) of this section shall apply notwithstanding that its initial application will result in the enactment in the same year (whether in the same appropriation Act or otherwise) of two separate appropriations, one for the then current fiscal year and one for the succeeding fiscal year.

(Pub. L. 93-112, § 4, Sept. 26, 1973, 87 Stat. 358.)

§ 704. Joint funding

Pursuant to regulations prescribed by the President, and to the extent consistent with the other provisions of this chapter, where funds are provided for a single project by more than one Federal agency to an agency or organization assisted under this chapter, the Federal agency

principally involved may be designated to act for all in administering the funds provided, and, in such cases, a single non-Federal share requirement may be established according to the proportion of funds advanced by each agency. When the principal agency involved is the Rehabilitation Services Administration, it may waive any grant or contract requirement (as defined by such regulations) under or pursuant to any law other than this chapter, which requirement is inconsistent with the similar requirements of the administering agency under or pursuant to this chapter.

(Pub. L. 93-112, § 5, Sept. 26, 1973, 87 Stat. 359.)

DELEGATION OF FUNCTIONS

Authority of the President under this section delegated to Director of Office of Management and Budget by section 1 of Ex. Ord. No. 11893, Dec. 31, 1975, 41 F.R. 1040, set out as a note under section 7103 of Title 31, Money and Finance.

§ 705. Consolidated rehabilitation plan

(a) Election by State; agency concurrence

In order to secure increased flexibility to respond to the varying needs and local conditions within the State, and in order to permit more effective and interrelated planning and operation of its rehabilitation programs, the State may submit a consolidated rehabilitation plan which includes the State's plan under section 721(a) of this title and its program for persons with developmental disabilities under the Developmental Disabilities Assistance and Bill of Rights Act [42 U.S.C. 6000 et seq.]: *Provided*, That the agency administering such State's program under such Act concurs in the submission of such a consolidated rehabilitation plan.

(b) Approval by Secretary of consolidated rehabilitation plan meeting statutory requirements; submission by State of separate rehabilitation plans

Such a consolidated rehabilitation plan must comply with, and be administered in accordance with, all the requirements of this chapter and the Developmental Disabilities Assistance and Bill of Rights Act [42 U.S.C. 6000 et seq.]. If the Secretary finds that all such requirements are satisfied, the Secretary may—

(1) approve the plan to serve in all respects as the substitute for the separate plans which would otherwise be required with respect to each of the programs included therein; or

(2) advise the State to submit separate plans for such programs.

(c) Noncompliance; assistance termination procedures

Findings of noncompliance in the administration of an approved consolidated rehabilitation plan, and any reductions, suspensions, or terminations of assistance as a result thereof, shall be carried out in accordance with the procedures set forth in subsections (c) and (d) of section 727 of this title.

(Pub. L. 93-112, § 6, Sept. 26, 1973, 87 Stat. 359; Pub. L. 99-506, title X, § 1001(a)(2), Oct. 21, 1986, 100 Stat. 1841; Pub. L. 100-630, title II, § 201(b), Nov. 7, 1988, 102 Stat. 3303; Pub. L. 102-569, title I, § 128(b)(1), Oct. 29, 1992, 106 Stat. 4388.)

REFERENCES IN TEXT

The Developmental Disabilities Assistance and Bill of Rights Act, referred to in subsecs. (a) and (b), is title I of Pub. L. 88-164, as added by Pub. L. 98-527, §2, Oct. 19, 1984, 98 Stat. 2662, and amended, which is classified generally to chapter 75 (§6000 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 6000 of Title 42 and Tables.

AMENDMENTS

1992—Subsec. (c). Pub. L. 102-569 substituted “727” for “721”.

1988—Subsec. (a). Pub. L. 100-630, §201(b)(1), substituted “Assistance and Bill of Rights Act” for “Services and Facilities Construction Amendments of 1970”.

Subsec. (b). Pub. L. 100-630, §201(b)(2), substituted “Assistance and Bill of Rights Act” for “Services and Facilities Construction Amendments of 1970” and “the Secretary may—” for “the Secretary may” in introductory provisions and substituted pars. (1) and (2) for “approve the plan to serve in all respects as the substitute for the separate plans which would otherwise be required with respect to each of the programs included therein, or may advise the State to submit separate plans for such programs”.

1986—Subsec. (b). Pub. L. 99-506 substituted “the Secretary may approve” for “he may approve” and “or may advise” for “or he may advise”.

§ 706. Definitions

For the purposes of this chapter:

(1) The term “construction” means the construction of new buildings, the acquisition, expansion, remodeling, alteration, and renovation of existing buildings, and initial equipment of such buildings, and the term “cost of construction” includes architects’ fees and acquisition of land in connection with construction but does not include the cost of offsite improvements.

(2) The term “criminal act” means any crime, including an act, omission, or possession under the laws of the United States or a State or unit of general local government, which poses a substantial threat of personal injury, notwithstanding that by reason of age, insanity, intoxication or otherwise the person engaging in the act, omission, or possession was legally incapable of committing a crime.

(3)(A) The term “designated State agency” means an agency designated under section 721(a)(1)(A) of this title.

(B) The term “designated State unit” means (i) any State agency unit required under section 721(a)(2)(A) of this title, or (ii) in cases in which no such unit is so required, the State agency described in section 721(a)(1)(B)(i) of this title.

(4)(A) The term “drug” means a controlled substance, as defined in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812).

(B) The term “illegal use of drugs” means the use of drugs, the possession or distribution of which is unlawful under the Controlled Substances Act [21 U.S.C. 801 et seq.]. Such term does not include the use of a drug taken under supervision by a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of Federal law.

(5) The term “employment outcome” means, with respect to an individual, entering or retaining full-time or, if appropriate, part-time com-

petitive employment in the integrated labor market (including satisfying the vocational outcome of supported employment) or satisfying any other vocational outcome the Secretary may determine, consistent with this chapter.

(6) The term “establishment of a community rehabilitation program” includes the acquisition, expansion, remodeling, or alteration of existing buildings necessary to adapt them to community rehabilitation program purposes or to increase their effectiveness for such purposes (subject, however, to such limitations as the Secretary may determine, in accordance with regulations the Secretary shall prescribe, in order to prevent impairment of the objectives of, or duplication of, other Federal laws providing Federal assistance in the construction of facilities for community rehabilitation programs), and may include such additional equipment and staffing as the Commissioner considers appropriate.

(7)(A) Subject to subparagraphs (B) and (C), the term “Federal share” means 78.7 percent.

(B) The term “Federal share” means 90 percent for the purposes of part C of subchapter I of this chapter and as specifically set forth in section 731(a)(3) of this title, except that with respect to payments pursuant to part B of subchapter I of this chapter to any State which are used to meet the costs of construction of those rehabilitation facilities identified in section 723(b)(2) of this title in such State, the Federal share shall be the percentages determined in accordance with the provisions of section 731(a)(3) of this title applicable with respect to the State.

(C) For the purpose of determining the non-Federal share with respect to a State, expenditures by a political subdivision thereof or by a local agency shall be regarded as expenditures by such State, subject to such limitations and conditions as the Secretary shall by regulation prescribe.

(8)(A) Except as otherwise provided in subparagraph (B), the term “individual with a disability” means any individual who (i) has a physical or mental impairment which for such individual constitutes or results in a substantial impediment to employment and (ii) can benefit in terms of an employment outcome from vocational rehabilitation services provided pursuant to subchapter I, III, VI, or VIII of this chapter.

(B) Subject to subparagraphs (C), (D), (E), and (F), the term “individual with a disability” means, for purposes of sections 701, 713, and 714 of this title, and subchapters II, IV, V, and VII of this chapter, any person who (i) has a physical or mental impairment which substantially limits one or more of such person’s major life activities, (ii) has a record of such an impairment, or (iii) is regarded as having such an impairment.

(C)(i) For purposes of subchapter V of this chapter, the term “individual with a disability” does not include an individual who is currently engaging in the illegal use of drugs, when a covered entity acts on the basis of such use.

(ii) Nothing in clause (i) shall be construed to exclude as an individual with a disability an individual who—

(I) has successfully completed a supervised drug rehabilitation program and is no longer

engaging in the illegal use of drugs, or has otherwise been rehabilitated successfully and is no longer engaging in such use;

(II) is participating in a supervised rehabilitation program and is no longer engaging in such use; or

(III) is erroneously regarded as engaging in such use, but is not engaging in such use;

except that it shall not be a violation of this chapter for a covered entity to adopt or administer reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual described in subclause (I) or (II) is no longer engaging in the illegal use of drugs.

(iii) Notwithstanding clause (i), for purposes of programs and activities providing health services and services provided under subchapters I, II and III of this chapter, an individual shall not be excluded from the benefits of such programs or activities on the basis of his or her current illegal use of drugs if he or she is otherwise entitled to such services.

(iv) For purposes of programs and activities providing educational services, local educational agencies may take disciplinary action pertaining to the use or possession of illegal drugs or alcohol against any student who is an individual with a disability and who currently is engaging in the illegal use of drugs or in the use of alcohol to the same extent that such disciplinary action is taken against students who are not individuals with disabilities. Furthermore, the due process procedures at 34 CFR 104.36 shall not apply to such disciplinary actions.

(v) For purposes of sections 793 and 794 of this title as such sections relate to employment, the term "individual with a disability" does not include any individual who is an alcoholic whose current use of alcohol prevents such individual from performing the duties of the job in question or whose employment, by reason of such current alcohol abuse, would constitute a direct threat to property or the safety of others.

(D) For the purpose of sections 793 and 794 of this title, as such sections relate to employment, such term does not include an individual who has a currently contagious disease or infection and who, by reason of such disease or infection, would constitute a direct threat to the health or safety of other individuals or who, by reason of the currently contagious disease or infection, is unable to perform the duties of the job.

(E) For the purposes of sections 791, 793 and 794 of this title—

(i) for purposes of the application of subparagraph (B) to such sections, the term "impairment" does not include homosexuality or bisexuality; and

(ii) therefore the term "individual with a disability" does not include an individual on the basis of homosexuality or bisexuality.

(F) For the purposes of sections 791, 793, and 794 of this title, the term "individual with a disability" does not include an individual on the basis of—

(i) transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;

(ii) compulsive gambling, kleptomania, or pyromania; or

(iii) psychoactive substance use disorders resulting from current illegal use of drugs.

(9) The term "local agency" means an agency of a unit of general local government or of an Indian tribe (or combination of such units or tribes) which has an agreement with the State agency designated pursuant to section 721(a)(1) of this title to conduct a vocational rehabilitation program under the supervision of such State agency in accordance with the State plan approved under section 721 of this title. Nothing in the preceding sentence of this paragraph or in section 721 of this title shall be construed to prevent the local agency from utilizing another local public or nonprofit agency to provide vocational rehabilitation services: *Provided*, That such an arrangement is made part of the agreement specified in this paragraph.

(10) The term "nonprofit", when used with respect to a community rehabilitation program, means a community rehabilitation program carried out by a corporation or association, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual and the income of which is exempt from taxation under section 501(c)(3) of title 26.

(11) The term "personal assistance services" means a range of services, provided by one or more persons, designed to assist an individual with a disability to perform daily living activities on or off the job that the individual would typically perform if the individual did not have a disability. Such services shall be designed to increase the individual's control in life and ability to perform everyday activities on or off the job.

(12) The term "public safety officer" means a person serving the United States or a State or unit of general local government, with or without compensation, in any activity pertaining to—

(A) the enforcement of the criminal laws, including highway patrol, or the maintenance of civil peace by the National Guard or the Armed Forces,

(B) a correctional program, facility, or institution where the activity is potentially dangerous because of contact with criminal suspects, defendants, prisoners, probationers, or parolees,

(C) a court having criminal or juvenile delinquent jurisdiction where the activity is potentially dangerous because of contact with criminal suspects, defendants, prisoners, probationers, or parolees, or

(D) firefighting, fire prevention, or emergency rescue missions.

(13) The term "rehabilitation technology" means the systematic application of technologies, engineering methodologies, or scientific principles to meet the needs of and address the barriers confronted by individuals with disabilities in areas which include education, rehabilitation, employment, transportation, independent living, and recreation. The term includes rehabilitation engineering, assistive technology devices, and assistive technology services.

(14) The term “Secretary”, except when the context otherwise requires, means the Secretary of Education.

(15)(A) Except as provided in subparagraph (B) or (C), the term “individual with a severe disability” means an individual with a disability—

(i) who has a severe physical or mental impairment which seriously limits one or more functional capacities (such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome;

(ii) whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time; and

(iii) who has one or more physical or mental disabilities resulting from amputation, arthritis, autism, blindness, burn injury, cancer, cerebral palsy, cystic fibrosis, deafness, head injury, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, mental retardation, mental illness, multiple sclerosis, muscular dystrophy, musculo-skeletal disorders, neurological disorders (including stroke and epilepsy), paraplegia, quadriplegia, and other spinal cord conditions, sickle cell anemia, specific learning disability, end-stage renal disease, or another disability or combination of disabilities determined on the basis of an assessment for determining eligibility and vocational rehabilitation needs described in subparagraphs (A) and (C) of paragraph (22) to cause comparable substantial functional limitation.

(B) For purposes of subchapter VII of this chapter, the term “individual with a severe disability” means an individual with a severe physical or mental impairment whose ability to function independently in the family or community or whose ability to obtain, maintain, or advance in employment is substantially limited and for whom the delivery of independent living services will improve the ability to function, continue functioning, or move towards functioning independently in the family or community or to continue in employment, respectively.

(C) For purposes of section 712 of this title and subchapter II of this chapter, the term “individual with a severe disability” includes an individual described in subparagraph (A) or (B).

(16) The term “State” includes, in addition to each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau (until the Compact of Free Association with Palau takes effect).

(17) The term “vocational rehabilitation services” means those services identified in section 723 of this title which are provided to individuals with disabilities under this chapter.

(18)(A) The term “supported employment” means competitive work in integrated work settings for individuals with the most severe disabilities—

(i) (I) for whom competitive employment has not traditionally occurred; or

(II) for whom competitive employment has been interrupted or intermittent as a result of a severe disability; and

(ii) who, because of the nature and severity of their disability, need intensive supported employment services for the period, and any extension, described in paragraph (34)(C) and extended services after the transition described in paragraph (27)(C) in order to perform such work.

(B) Such term includes transitional employment for persons who are individuals with the most severe disabilities due to mental illness.

(19) The term “public or nonprofit”, with respect to an agency or organization, includes an Indian tribe.

(20) The terms “Indian”, “American Indian”, and “Indian American” mean an individual who is a member of an Indian tribe.

(21) The term “Indian tribe” means any Federal or State Indian tribe, band, rancheria, pueblo, colony, or community, including any Alaskan native village or regional village corporation (as defined in or established pursuant to the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.]).

(22) The term “assessment for determining eligibility and vocational rehabilitation needs” means, as appropriate in each case—

(A)(i) a review of existing data—

(I) to determine whether an individual is eligible for vocational rehabilitation services; and

(II) to assign the priority described in section 721(a)(5)(A) of this title in the States that use an order of selection pursuant to section 721(a)(5)(A) of this title; and

(ii) to the extent additional data is necessary to make such determination and assignment, a preliminary assessment of such data (including the provision of goods and services during such assessment);

(B) to the extent additional data is necessary, a comprehensive assessment (including the administration of the assessment) of the unique strengths, resources, priorities, interests, and needs, including the need for supported employment, of an eligible individual to make a determination of the goals, objectives, nature, and scope of vocational rehabilitation services to be included in the individualized written rehabilitation program of the individual, which comprehensive assessment—

(i) is limited to information that is necessary to identify the rehabilitation needs of the individual and to develop the rehabilitation program of the individual;

(ii) uses, as a primary source of such information, to the maximum extent possible and appropriate and in accordance with confidentiality requirements—

(I) existing information; and

(II) such information as can be provided by the individual and, where appropriate, by the family of the individual;

(iii) may include, to the degree needed to make such a determination, an assessment of the personality, interests, interpersonal skills, intelligence and related functional capacities, educational achievements, work experience, vocational aptitudes, personal and social adjustments, and employment opportunities of the individual, and the medi-

cal, psychiatric, psychological, and other pertinent vocational, educational, cultural, social, recreational, and environmental factors, that affect the employment and rehabilitation needs of the individual; and

(iv) may include an appraisal of the patterns of work behavior of the individual and services needed for the individual to acquire occupational skills, and to develop work attitudes, work habits, work tolerance, and social and behavior patterns necessary for successful job performance, including the utilization of work in real job situations to assess and develop the capacities of the individual to perform adequately in a work environment; and

(C)(i) referral;

(ii) where appropriate, the provision of rehabilitation technology services to an individual with a disability to assess and develop the capacities of the individual to perform in a work environment; and

(iii)(I) the provision of vocational rehabilitation services to an individual for a total period not in excess of 18 months for the limited purpose of making determinations regarding whether an individual is eligible for vocational rehabilitation services and regarding the nature and scope of vocational rehabilitation services needed for such individual; and

(II) an assessment at least once in every 90-day period during which such services are provided, of the results of the provision of such services to an individual to ascertain whether any of the determinations described in subclause (I) may be made.

(23) The term “assistive technology device” has the meaning given such term in section 2202(2) of this title, except that the reference in such section to the term “individuals with disabilities” shall be deemed to mean more than one individual with a disability as defined in paragraph (8)(A).

(24) The term “assistive technology service” has the meaning given such term in section 2202(3) of this title, except that the reference in such section—

(A) to the term “individual with a disability” shall be deemed to mean an individual with a disability, as defined in paragraph (8)(A); and

(B) to the term “individuals with disabilities” shall be deemed to mean more than one such individual.

(25) The term “community rehabilitation program” means a program that provides directly or facilitates the provision of vocational rehabilitation services to individuals with disabilities, and that provides, singly or in combination, for an individual with a disability to enable the individual to maximize opportunities for employment, including career advancement—

(A) medical, psychiatric, psychological, social, and vocational services that are provided under one management;

(B) testing, fitting, or training in the use of prosthetic and orthotic devices;

(C) recreational therapy;

(D) physical and occupational therapy;

(E) speech, language, and hearing therapy;

(F) psychiatric, psychological, and social services, including positive behavior management;

(G) assessment for determining eligibility and vocational rehabilitation needs;

(H) rehabilitation technology;

(I) job development, placement, and retention services;

(J) evaluation or control of specific disabilities;

(K) orientation and mobility services for individuals who are blind;

(L) extended employment;

(M) psychosocial rehabilitation services;

(N) supported employment services and extended services;

(O) services to family members when necessary to the vocational rehabilitation of the individual;

(P) personal assistance services; or

(Q) services similar to the services described in one of subparagraphs (A) through (P).

(26) The term “disability” means—

(A) except as otherwise provided in subparagraph (B), a physical or mental impairment that constitutes or results in a substantial impediment to employment; or

(B) for purposes of sections 701, 713, and 714 of this title, and subchapters II, IV, V, and VII of this chapter, a physical or mental impairment that substantially limits one or more major life activities.

(27) The term “extended services” means ongoing support services and other appropriate services, needed to support and maintain an individual with the most severe disability in supported employment, that—

(A) are provided singly or in combination and are organized and made available in such a way as to assist an eligible individual in maintaining integrated, competitive employment;

(B) are based on a determination of the needs of an eligible individual, as specified in an individualized written rehabilitation program; and

(C) are provided by a State agency, a non-profit private organization, employer, or any other appropriate resource, after an individual has made the transition from support provided by the designated State unit.

(28)(A) The term “impartial hearing officer” means an individual—

(i) who is not an employee of a public agency (other than an administrative law judge, hearing examiner, or employee of an institution of higher education);

(ii) who is not a member of the State Rehabilitation Advisory Council described in section 725 of this title;

(iii) who has not been involved in previous decisions regarding the vocational rehabilitation of the applicant or client;

(iv) who has knowledge of the delivery of vocational rehabilitation services, the State plan under section 721 of this title, and the Federal and State rules governing the provision of such services and training with respect to the performance of official duties; and

(v) who has no personal or financial interest that would be in conflict with the objectivity of the individual.

(B) An individual shall not be considered to be an employee of a public agency for purposes of subparagraph (A)(i) solely because the individual is paid by the agency to serve as a hearing officer.

(29) The term “independent living core services” means—

- (A) information and referral services;
- (B) independent living skills training;
- (C) peer counseling (including cross-disability peer counseling); and
- (D) individual and systems advocacy.

(30) The term “independent living services” includes—

- (A) independent living core services; and
- (B)(i) counseling services, including psychological, psychotherapeutic, and related services;

(ii) services related to securing housing or shelter, including services related to community group living, and supportive of the purposes of this chapter and of the subchapters of this chapter, and adaptive housing services (including appropriate accommodations to and modifications of any space used to serve, or occupied by, individuals with disabilities);

(iii) rehabilitation technology;

(iv) mobility training;

(v) services and training for individuals with cognitive and sensory disabilities, including life skills training, and interpreter and reader services;

(vi) personal assistance services, including attendant care and the training of personnel providing such services;

(vii) surveys, directories, and other activities to identify appropriate housing, recreation opportunities, and accessible transportation, and other support services;

(viii) consumer information programs on rehabilitation and independent living services available under this chapter, especially for minorities and other individuals with disabilities who have traditionally been unserved or underserved by programs under this chapter;

(ix) education and training necessary for living in a community and participating in community activities;

(x) supported living;

(xi) transportation, including referral and assistance for such transportation;

(xii) physical rehabilitation;

(xiii) therapeutic treatment;

(xiv) provision of needed prostheses and other appliances and devices;

(xv) individual and group social and recreational services;

(xvi) training to develop skills specifically designed for youths who are individuals with disabilities to promote self-awareness and esteem, develop advocacy and self-empowerment skills, and explore career options;

(xvii) services for children;

(xviii) services under other Federal, State, or local programs designed to provide resources, training, counseling, or other assistance, of substantial benefit in enhancing the

independence, productivity, and quality of life of individuals with disabilities;

(xix) appropriate preventive services to decrease the need of individuals assisted under this chapter for similar services in the future;

(xx) community awareness programs to enhance the understanding and integration into society of individuals with disabilities; and

(xxi) such other services as may be necessary and not inconsistent with the provisions of this chapter.

(31)(A) The term “individuals with disabilities” means more than one individual with a disability.

(B) The term “individuals with severe disabilities” means more than one individual with a severe disability.

(C) The term “individuals with the most severe disabilities” means more than one individual with the most severe disability.

(32) The term “institution of higher education” has the meaning given the term in section 1141(a) of title 20.

(33) The term “ongoing support services” means services—

(A) provided to individuals with the most severe disabilities;

(B) provided, at a minimum, twice monthly—

(i) to make an assessment, regarding the employment situation, at the worksite of each such individual in supported employment, or, under special circumstances, especially at the request of the client, off site; and

(ii) based on the assessment, to provide for the coordination or provision of specific intensive services, at or away from the worksite, that are needed to maintain employment stability; and

(C) consisting of—

(i) a particularized assessment supplementary to the comprehensive assessment described in paragraph (22)(B);

(ii) the provision of skilled job trainers who accompany the individual for intensive job skill training at the work site;¹

(iii) job development and placement;

(iv) social skills training;

(v) regular observation or supervision of the individual;

(vi) followup services such as regular contact with the employers, the individuals, the parents, family members, guardians, advocates, or authorized representatives of the individuals, and other suitable professional and informed advisors, in order to reinforce and stabilize the job placement;

(vii) facilitation of natural supports at the worksite;

(viii) any other service identified in section 723 of this title; or

(ix) a service similar to another service described in this subparagraph.

(34) The term “supported employment services” means ongoing support services and other appropriate services needed to support and maintain an individual with the most severe disability in supported employment, that—

¹ So in original. Probably should be “worksite;”.

(A) are provided singly or in combination and are organized and made available in such a way to assist an eligible individual in entering or maintaining integrated, competitive employment;

(B) are based on a determination of the needs of an eligible individual, as specified in an individualized written rehabilitation program; and

(C) are provided by the designated State unit for a period of time not to extend beyond 18 months, unless under special circumstances the eligible individual and the rehabilitation counselor or coordinator jointly agree to extend the time in order to achieve the rehabilitation objectives identified in the individualized written rehabilitation program.

(35) The term “transition services” means a coordinated set of activities for a student, designed within an outcome-oriented process, that promotes movement from school to post school activities, including post secondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation. The coordinated set of activities shall be based upon the individual student's needs, taking into account the student's preferences and interests, and shall include instruction, community experiences, the development of employment and other post school adult living objectives, and, when appropriate, acquisition of daily living skills and functional vocational evaluation.

(Pub. L. 93-112, §7, Sept. 26, 1973, 87 Stat. 359; Pub. L. 93-516, title I, §111(a), Dec. 7, 1974, 88 Stat. 1619; Pub. L. 93-651, title I, §111(a), Nov. 21, 1974, 89 Stat. 2-5; Pub. L. 95-602, title I, §122(a)(4)-(8), Nov. 6, 1978, 92 Stat. 2984, 2985; Pub. L. 98-221, title I, §101, Feb. 22, 1984, 98 Stat. 17; Pub. L. 99-506, title I, §103(a), (b), (c)(1), (d)(1), (2)(A), (C), (e)-(h)(1), (i), (j), title X, §§1001(a)(3), 1002(a), Oct. 21, 1986, 100 Stat. 1809-1811, 1841, 1844; Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 100-259, §9, Mar. 22, 1988, 102 Stat. 31; Pub. L. 100-630, title II, §201(c), Nov. 7, 1988, 102 Stat. 3303; Pub. L. 101-336, title V, §512, July 26, 1990, 104 Stat. 376; Pub. L. 102-569, title I, §102(a)-(n), (p)(3), Oct. 29, 1992, 106 Stat. 4347-4350, 4356; Pub. L. 103-73, title I, §102(1), 103, Aug. 11, 1993, 107 Stat. 718; Pub. L. 103-218, title IV, §404, Mar. 9, 1994, 108 Stat. 97.)

REFERENCES IN TEXT

Section 721(a)(B)(i) of this title, referred to in par. (3), was in the original “section 101(a)(B)(i) of this Act”. As enacted the citation omitted a paragraph designation but is probably a reference to section 721(a)(1)(B)(i) of this title.

The Controlled Substances Act, referred to in par. (4)(B), is title II of Pub. L. 91-513, Oct. 27, 1970, 84 Stat. 1242, as amended, which is classified principally to subchapter I (§801 et seq.) of chapter 13 of Title 21, Food and Drugs. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 21 and Tables.

For Oct. 1, 1994, as the date the Compact of Free Association with Palau takes effect, referred to in par. (16), see Proc. No. 6726, Sept. 27, 1994, 59 F.R. 49777, set out as a note under section 1931 of Title 48, Territories and Insular Possessions.

The Alaska Native Claims Settlement Act, referred to in par. (21), is Pub. L. 92-203, Dec. 18, 1971, 85 Stat.

688, as amended, which is classified generally to chapter 33 (§1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

CODIFICATION

For history of Pub. L. 93-651, which enacted amendments identical to Pub. L. 93-516, see note set out under section 701 of this title.

PRIOR PROVISIONS

Prior similar provisions were contained in former sections 41, 41a, 42-1, and 42a of this title.

AMENDMENTS

1994—Par. (23). Pub. L. 103-218, §404(a), substituted “2202(2)” for “2202(1)”.

Par. (24). Pub. L. 103-218, §404(b), substituted “2202(3)” for “2202(2)”.

1993—Par. (3). Pub. L. 103-73, §102(1), made technical correction to Pub. L. 102-569, §102(a). See 1992 Amendment note below.

Pub. L. 103-73, §103(1), designated second sentence of subpar. (A) as subpar. (B), and in cl. (ii) substituted “section 721(a)(1)(B)(i)” for “section 721(a)(B)(i)”.

Par. (8)(A). Pub. L. 103-73, §103(2)(A), substituted “subchapter I, III, VI, or VIII” for “subchapters I, II, III, VI, and VIII”.

Par. (8)(B). Pub. L. 103-73, §103(2)(B), substituted “subchapters II, IV, V, and VII” for “subchapters IV and V”.

Subsec. (15)(A). Pub. L. 103-73, §103(3), which directed amendment of introductory provisions by inserting a comma after “subparagraph (C)”, was executed by making the insertion after “subparagraph (B) or (C)”, to reflect the probable intent of Congress.

Par. (18)(A)(ii). Pub. L. 103-73, §103(4), substituted “employment services for the period, and any extension, described in paragraph (34)(C) and extended services after the transition described in paragraph (27)(C)” for “employment services or extended services”.

Par. (26)(B). Pub. L. 103-73, §103(5), substituted “II, IV, V, and VII” for “II, III, IV, V, and VIII”.

1992—Par. (3). Pub. L. 102-569, §102(a), as amended by Pub. L. 103-73, §102(1), substituted “(3)(A) The term ‘designated State agency’ means an agency designated under section 721(a)(1)(A) of this title.” for “(3)” and redesignated former subpars. (A) and (B) as cls. (i) and (ii), respectively.

Par. (4). Pub. L. 102-569, §102(d)(4), (5), redesignated par. (22) as (4) and inserted it after par. (3). Former par. (4) redesignated (6).

Pub. L. 102-569, §102(b), substituted “community rehabilitation program” for “rehabilitation facility” in two places, “includes the acquisition” for “means the acquisition”, and “facilities for community rehabilitation programs” for “such facilities”.

Par. (5). Pub. L. 102-569, §102(d)(1), (2), redesignated par. (6) as (5) and struck out former par. (5) which defined “evaluation of rehabilitation potential”.

Par. (6). Pub. L. 102-569, §102(d)(2), (3), redesignated par. (4) as (6) and inserted it before par. (7). Former par. (6) redesignated (5).

Pub. L. 102-569, §102(c), amended par. (6) generally. Prior to amendment, par. (6) read as follows: “The term ‘employability’, with respect to an individual, means a determination that, with the provision of vocational rehabilitation services, the individual is likely to enter or retain, as a primary objective, full-time employment, and when appropriate, part-time employment, consistent with the capacities or abilities of the individual in the competitive labor market or any other vocational outcome the Secretary may determine consistent with this chapter.”

Par. (7). Pub. L. 102-569, §102(e), substituted “78.7 percent” for “80 percent” in subpar. (A), redesignated subpar. (C) as (B) and substituted “section 731(a)(3)” for “section 771(b)(3)” in two places, struck out former sub-

par. (B) which read as follows: "For any fiscal year for which payments to a State under section 731(a) of this title exceed such payments for fiscal year 1988, the Federal share for those payments in excess of the fiscal year 1988 amount shall be 79 percent for fiscal year 1989, 78 percent for fiscal year 1990, 77 percent for fiscal year 1991, 76 percent for fiscal year 1992, and 75 percent for fiscal year 1993.", and redesignated subpar. (D) as (C).

Par. (8)(A). Pub. L. 102-569, §102(f)(1), in introductory provisions, substituted "a disability" for "handicaps", in cl. (i), substituted "impairment" for "disability" and "impediment" for "handicap", and in cl. (ii), substituted "can benefit" for "can reasonably be expected to benefit", "an employment outcome" for "employability", and "subchapters I, II, III, VI, and VIII" for "subchapters I and III".

Par. (8)(B). Pub. L. 102-569, §102(f)(2), substituted "(C), (D), (E), and (F)" for "(C) and (D)" and "a disability" for "handicaps", and inserted references to sections 701, 713, and 714 of this title.

Par. (8)(C). Pub. L. 102-569, §102(f)(3), in cls. (i) and (ii), substituted "a disability" for "handicaps", in cl. (iv), substituted "student who is an individual with a disability and" for "handicapped student" and "students who are not individuals with disabilities" for "nonhandicapped students", and in cl. (v), substituted "a disability" for "handicaps".

Par. (8)(E), (F). Pub. L. 102-569, §102(f)(4), added subpars. (E) and (F).

Par. (10). Pub. L. 102-569, §102(g), substituted "with respect to a community rehabilitation program, means a community rehabilitation program carried out by" for "with respect to a rehabilitation facility, means a rehabilitation facility owned and operated by".

Pars. (11), (12). Pub. L. 102-569, §102(h)(2), (3), added par. (11) and redesignated former pars. (11) and (12) as (12) and (13), respectively.

Par. (13). Pub. L. 102-569, §102(h)(1), (2), (i), (p)(3)(A), redesignated par. (12) as (13), substituted "rehabilitation technology" for "rehabilitation engineering" and "disabilities" for "handicaps", inserted at end "The term includes rehabilitation engineering, assistive technology devices, and assistive technology services.", and struck out former par. (13) which defined "rehabilitation facility".

Par. (15)(A). Pub. L. 102-569, §102(j)(1), (p)(3)(B), in introductory provisions, substituted "subparagraph (B) or (C)" for "subparagraph (B)", "a severe disability" for "severe handicaps", and "a disability" for "handicaps (as defined in paragraph (8))", in cl. (i), substituted "impairment" for "disability" and "an employment outcome" for "employability", and in cl. (iii), substituted "assessment for determining eligibility and vocational rehabilitation needs described in subparagraphs (A) and (C) of paragraph (22)" for "evaluation of rehabilitation potential".

Par. (15)(B), (C). Pub. L. 102-569, §102(j)(2), added subpars. (B) and (C) and struck out former subpar. (B) which read as follows: "For purposes of subchapter VII of this chapter the term 'individual with severe handicaps' means an individual whose ability to function independently in family or community or whose ability to engage or continue in employment is so limited by the severity of his or her physical or mental disability that independent living rehabilitation services are required in order to achieve a greater level of independence in functioning in family or community or engaging or continuing in employment."

Par. (16). Pub. L. 102-569, §102(k), amended par. (16) generally. Prior to amendment, par. (16) read as follows: "The term 'State' includes the District of Columbia, the Virgin Islands, Puerto Rico, Guam, American Samoa, and the Trust Territory of the Pacific Islands, and for the purposes of American Samoa and the Trust Territory of the Pacific Islands, the appropriate State agency designated as provided in section 721(a)(1) of this title shall be the Governor of American Samoa or the High Commissioner of the Trust Territory of the Pacific Islands, as the case may be."

Par. (17). Pub. L. 102-569, §102(p)(3)(C), substituted "disabilities" for "handicaps".

Par. (18). Pub. L. 102-569, §102(l), amended par. (18) generally. Prior to amendment, par. (18) read as follows: "The term 'supported employment' means competitive work in integrated work settings—

"(A) for individuals with severe handicaps for whom competitive employment has not traditionally occurred, or

"(B) for individuals for whom competitive employment has been interrupted or intermittent as a result of a severe disability, and

who, because of their handicap, need on-going support services to perform such work. Such term includes transitional employment for individuals with chronic mental illness. For the purpose of this chapter, supported employment as defined in this paragraph may be considered an acceptable outcome for employability."

Par. (19). Pub. L. 102-569, §102(m), amended par. (19) generally. Prior to amendment, par. (19) read as follows: "The term 'public or nonprofit agency or organization' shall include an Indian tribe."

Pars. (22) to (35). Pub. L. 102-569, §102(n), added pars. (22) to (35). Former par. (22) redesignated (4).

1990—Par. (8)(B). Pub. L. 101-336, §512(c), substituted "Subject to subparagraphs (C) and (D)" for "Subject to the second sentence of this subparagraph" in first sentence and struck out at end "For purposes of sections 793 and 794 of this title as such sections relate to employment, such term does not include any individual who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents such individual from performing the duties of the job in question or whose employment, by reason of such current alcohol or drug abuse, would constitute a direct threat to property or the safety of others."

Par. (8)(C), (D). Pub. L. 101-336, §512(a), added subpar. (C) and redesignated former subpar. (C) as (D).

Par. (22). Pub. L. 101-336, §512(b), added par. (22).

1988—Par. (2). Pub. L. 100-630, §201(c)(1), inserted comma after "local government".

Par. (5)(B). Pub. L. 100-630, §201(c)(2), inserted comma after "employability".

Par. (5)(C). Pub. L. 100-630, §201(c)(3), substituted "skills" for "skill".

Par. (5)(G)(i). Pub. L. 100-630, §201(c)(4), substituted "neither" for "neither such individual".

Par. (8)(C). Pub. L. 100-259 added subpar. (C).

Par. (13)(B). Pub. L. 100-630, §201(c)(5), reenacted cl. (B). See 1986 Amendment note below.

Par. (13)(F). Pub. L. 100-630, §201(c)(6), amended cl. (F) generally, inserting a comma after "psychological". See 1986 Amendment note below.

Par. (13)(L). Pub. L. 100-630, §201(c)(7), which directed the substitution of "provision" for "provisions", could not be executed because the word "provisions" did not appear.

Par. (15)(A). Pub. L. 100-630, §201(c)(8), struck out "for purposes of this chapter" before "the term" in introductory provisions.

1986—Par. (3). Pub. L. 99-506, §1002(a)(1), substituted "designated State unit" for "designated State units".

Par. (4). Pub. L. 99-506, §1001(a)(3), substituted "the Secretary shall prescribe" for "he shall prescribe".

Par. (5)(B). Pub. L. 99-506, §103(a)(1), (2), inserted "recreational," after "cultural, social," and "employability" after "an evaluation of the individual's".

Par. (5)(G). Pub. L. 99-506, §103(d)(2)(A), substituted "an individual with handicaps" for "a handicapped individual" in two places.

Par. (5)(H). Pub. L. 99-506, §103(a)(3)–(5), added subpar. (H).

Par. (6). Pub. L. 99-506, §103(b), added par. (6) and redesignated former par. (6) as (7).

Par. (7). Pub. L. 99-506, §103(c)(1), amended par. (7) generally. Prior to amendment, par. (7) read as follows: "The term 'Federal share' means 80 per centum, except that it shall mean 90 per centum for the purposes of part C of subchapter I of this chapter and as specifically set forth in section 771(b)(3) of this title: *Provided*, That with respect to payments pursuant to part B of subchapter I of this chapter to any State which are

used to meet the costs of construction of those rehabilitation facilities identified in section 723(b)(2) of this title in such State, the Federal share shall be the percentages determined in accordance with the provisions of section 771(b)(3) of this title applicable with respect to that State and that, for the purpose of determining the non-Federal share with respect to any State, expenditures by a political subdivision thereof or by a local agency shall, subject to such limitations and conditions as the Secretary shall by regulation prescribe, be regarded as expenditures by such State."

Pub. L. 99-506, §103(b), redesignated former par. (6) as (7). Former par. (7) redesignated (8).

Par. (8). Pub. L. 99-506, §103(b), (d)(1), redesignated former par. (7) as (8) and substituted "individual with handicaps" for "handicapped individual" in subpars. (A) and (B). Former par. (8) redesignated (9).

Par. (9). Pub. L. 99-506, §103(b), (e), redesignated former par. (8) as (9) and substituted "Indian tribe (or combination of such units or tribes)" for "Indian tribal organization (or combination of such units or organizations)". Former par. (9) redesignated (10).

Par. (10). Pub. L. 99-514 substituted "Internal Revenue Code of 1986" for "Internal Revenue Code of 1954", which for purposes of codification was translated as "title 26" thus requiring no change in text.

Pub. L. 99-506, §103(b), redesignated former par. (9) as (10). Former par. (10) redesignated (11).

Par. (11). Pub. L. 99-506, §103(b), redesignated former par. (10) as (11). Former par. (11) redesignated (13).

Par. (12). Pub. L. 99-506, §103(f), added par. (12). Former par. (12) redesignated (14).

Par. (13). Pub. L. 99-506, §1002(a)(2), which provided for the reenactment of cl. (B) of par. (11), and the amendment of cl. (F) of par. (11) by inserting "psychiatric," before "psychological", to correct amendment made by section 122(a)(7)(B) of Pub. L. 95-602 (see 1978 Amendment note below), was executed to cls. (B) and (F) of par. (13) to reflect the probable intent of Congress and the intervening redesignation of par. (11) as par. (13) by section 103(f) of Pub. L. 99-506. See note below.

Pub. L. 99-506, §103(d)(2)(C), (f), (g), redesignated former par. (11) as (13) and substituted "individuals with handicaps" for "handicapped individuals" in three places and added cl. (M). Former par. (13) redesignated (15).

Par. (14). Pub. L. 99-506, §103(f), redesignated former par. (12) as (14). Former par. (14) redesignated (16).

Par. (15). Pub. L. 99-506, §103(f), (h)(1), redesignated former par. (13) as (15) and amended it generally, substituting definition of term "individual with severe handicaps" for definition of term "severe handicap". Former par. (15) redesignated (17).

Par. (16). Pub. L. 99-506, §103(i)(1), redesignated former par. (14) as (16).

Par. (17). Pub. L. 99-506, §103(d)(2)(C), (i)(1), redesignated former par. (15) as (17) and substituted "individuals with handicaps" for "handicapped individuals".

Pars. (18) to (21). Pub. L. 99-506, §103(i)(2), (j), added pars. (18) to (21).

1984—Par. (12). Pub. L. 98-221 substituted "Secretary of Education" for "Secretary of Health, Education, and Welfare".

1978—Par. (3). Pub. L. 95-602, §122(a)(8), added par. (3). Former par. (3) redesignated (4).

Par. (4). Pub. L. 95-602, §122(a)(4), (8), redesignated former par. (3) as (4) and substituted "and may include such additional equipment and staffing as the Commissioner considers appropriate" for "and the initial equipment for such buildings, and may include the initial staffing thereof". Former par. (4) redesignated (5).

Par. (5). Pub. L. 95-602, §122(a)(5), (8), redesignated former par. (4) as (5) and inserted in subpar. (B), "psychiatric" after "medical". Former par. (5) redesignated (6).

Par. (6). Pub. L. 95-602, §122(a)(8), redesignated former par. (5) as (6). Former par. (6) redesignated (7).

Par. (7). Pub. L. 95-602, §122(a)(6), (8), redesignated former par. (6) as (7), substituted "(A) Except as other-

wise provided in subparagraph (B), the term" for "The term", redesignated cls. (A) and (B) as cls. (i) and (ii), respectively, struck out provision defining "handicapped individual" for purposes of subchapters IV and V of this chapter as any person who has a physical or mental impairment which substantially limits one or more major life activities, has a record of such impairment, or is regarded as having such impairment, and added subpar. (B). Former par. (7) redesignated (8).

Pars. (8) to (10). Pub. L. 95-602, §122(a)(8), redesignated former pars. (7) to (9) as (8) to (10), respectively.

Par. (11). Pub. L. 95-602, §122(a)(7), (8), redesignated former par. (10) as (11) and inserted in cl. (A), "psychiatric" after "medical" and in cl. (F), "psychiatric" before "psychological". Notwithstanding directory language that amendment be made to cl. (B) of par. (11), amendment was executed to cl. (F) of par. (11) to reflect the probable intent of Congress. Former par. (11) redesignated (12).

Pars. (12) to (15). Pub. L. 95-602, §122(a)(8), redesignated former pars. (11) to (14) as (12) to (15), respectively.

1974—Par. (6). Pub. L. 93-516 expanded definition of handicapped individual to include for the purposes of subchapters IV and V of this chapter any person who has a physical or mental impairment which substantially limits one or more of such person's major life activities, has a record of such as impairment, or is regarded as having such an impairment.

Pub. L. 93-651 made identical amendment as made by Pub. L. 93-516.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 103(c)(1) of Pub. L. 99-506 provided that the amendment made by that section is effective Oct. 1, 1988.

EXCLUSION FROM COVERAGE

Amendment by Pub. L. 100-259 not to be construed to extend application of this chapter to ultimate beneficiaries of Federal financial assistance excluded from coverage before Mar. 22, 1988, see section 7 of Pub. L. 100-259, set out as a Construction note under section 1687 of Title 20, Education.

ABORTION NEUTRALITY

Amendment by Pub. L. 100-259 not to be construed to force or require any individual or hospital or any other institution, program, or activity receiving Federal funds to perform or pay for an abortion, see section 8 of Pub. L. 100-259, set out as a note under section 1688 of Title 20, Education.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 722, 725, 794, 795, 795g, 796b, 796d, 796f-4, 796k, 797a, 1503, 1583, 2211 of this title; title 42 sections 1769h, 5061, 6862, 12511.

§ 707. Allotment percentage

(a) Percentage limitation; promulgation and computation; "United States" defined

(1) For purposes of section 730 of this title, the allotment percentage for any State shall be 100 per centum less that percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capita income of the United States, except that (A) the allotment percentage shall in no case be more than 75 per centum or less than 33⅓ per centum, and (B) the allotment percentage for the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Republic of Palau (until the Compact of Free Association with Palau takes effect) shall be 75 per centum.

(2) The allotment percentages shall be promulgated by the Secretary between October 1 and

December 31 of each even-numbered year, on the basis of the average of the per capita incomes of the States and of the United States for the three most recent consecutive years for which satisfactory data are available from the Department of Commerce. Such promulgation shall be conclusive for each of the two fiscal years in the period beginning on the October 1 next succeeding such promulgation.

(3) The term “United States” means (but only for purposes of this subsection) the fifty States and the District of Columbia.

(b) Population determination

The population of the several States and of the United States shall be determined on the basis of the most recent data available, to be furnished by the Department of Commerce by October 1 of the year preceding the fiscal year for which funds are appropriated pursuant to statutory authorizations.

(Pub. L. 93-112, §8, Sept. 26, 1973, 87 Stat. 362; Pub. L. 94-273, §10, Apr. 21, 1976, 90 Stat. 378; Pub. L. 102-569, title I, §103, Oct. 29, 1992, 106 Stat. 4361.)

REFERENCES IN TEXT

For Oct. 1, 1994, as the date the Compact of Free Association with Palau takes effect, referred to in subsec. (a)(1), see Proc. No. 6726, Sept. 27, 1994, 59 F.R. 49777, set out as a note under section 1931 of Title 48, Territories and Insular Possessions.

PRIOR PROVISIONS

Prior similar provisions were contained in former section 41 of this title.

AMENDMENTS

1992—Subsec. (a)(1). Pub. L. 102-569 substituted “For purposes of section 730 of this title, the” for “The” and “and the Republic of Palau (until the Compact of Free Association with Palau takes effect)” for “and the Trust Territory of the Pacific Islands”.

1976—Subsec. (a)(2). Pub. L. 94-273 substituted “October” for “July” wherever appearing, and “December 31” for “September 30”.

§ 708. Repealed. Pub. L. 103-382, title II, § 272, Oct. 20, 1994, 108 Stat. 3931

Section, Pub. L. 93-112, §9, Sept. 26, 1973, 87 Stat. 362, related to audit and examination of records, scope of disclosure, and access to representatives.

§ 709. Nonduplication prohibition

In determining the amount of any State’s Federal share of expenditures for planning, administration, and services incurred by it under a State plan approved in accordance with section 721 of this title, there shall be disregarded (1) any portion of such expenditures which are financed by Federal funds provided under any other provision of law, and (2) the amount of any non-Federal funds required to be expended as a condition of receipt of such Federal funds. No payment may be made from funds provided under one provision of this chapter relating to any cost with respect to which any payment is made under any other provision of this chapter, except that this section shall not be construed to limit or reduce fees for services rendered by community rehabilitation programs.

(Pub. L. 93-112, §10, Sept. 26, 1973, 87 Stat. 363; Pub. L. 95-602, title I, §122(a)(9), Nov. 6, 1978, 92

Stat. 2985; Pub. L. 100-630, title II, §201(d), Nov. 7, 1988, 102 Stat. 3304; Pub. L. 102-569, title I, §104, Oct. 29, 1992, 106 Stat. 4361.)

PRIOR PROVISIONS

Prior similar provisions were contained in former sections 33 and 42-1 of this title.

AMENDMENTS

1992—Pub. L. 102-569 substituted “community rehabilitation programs” for “rehabilitation facilities” in second sentence.

1988—Pub. L. 100-630 inserted comma after “any other provision of this chapter”.

1978—Pub. L. 95-602 provided that this section not be construed to limit or reduce fees for services rendered by rehabilitation facilities.

§ 710. Application of other laws

The provisions of chapter 71 of title 31 and of section 1469a of title 48 shall not apply to the administration of the provisions of this chapter or to the administration of any program or activity under this chapter.

(Pub. L. 93-112, §11, as added Pub. L. 95-602, title I, §121, Nov. 6, 1978, 92 Stat. 2984.)

CODIFICATION

“Chapter 71 of title 31” substituted in text for “the Act of December 5, 1974 (Public Law 93-510) [42 U.S.C. 4251 et seq.]” on authority of Pub. L. 97-258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

§ 711. Administration

(a) Technical assistance; short-term traineeships; special projects; dissemination of information; monitoring and evaluations

In carrying out the purposes of this chapter, the Commissioner may—

(1) provide consultative services and technical assistance to public or nonprofit private agencies and organizations;

(2) provide short-term training and technical instruction, including training for the personnel of community rehabilitation programs, centers for independent living, and other providers of services (including job coaches);

(3) conduct special projects and demonstrations;

(4) collect, prepare, publish, and disseminate special educational or informational materials, including reports of the projects for which funds are provided under this chapter; and

(5) provide monitoring and conduct evaluations.

(b) Utilization of services and facilities; information task forces

(1) In carrying out the duties under this chapter, the Commissioner may utilize the services and facilities of any agency of the Federal Government and of any other public or nonprofit agency or organization, in accordance with agreements between the Commissioner and the head thereof, and may pay therefor, in advance or by way of reimbursement, as may be provided in the agreement.

(2) In carrying out the provisions of this chapter, the Commissioner shall appoint such task forces as may be necessary to collect and dis-

seminate information in order to improve the ability of the Commissioner to carry out the provisions of this chapter.

(c) Rules and regulations

The Commissioner may promulgate such regulations as are considered appropriate to carry out the Commissioner's duties under this chapter.

(d) Regulations for implementation of order of selection for vocational rehabilitation services

The Secretary shall promulgate regulations regarding the requirements for the implementation of an order of selection for vocational rehabilitation services under section 721(a)(5)(A) of this title if such services cannot be provided to all eligible individuals with disabilities who apply for such services.

(e) Regulations establishing criteria for selection of vocational rehabilitation services

(1) Not later than 120 days after October 29, 1992, the Secretary shall receive public comment and promulgate regulations establishing criteria pertaining to the selection of vocational rehabilitation services, and of vocational rehabilitation services providers, by an individual with a disability, consistent with the individualized written rehabilitation program of the individual under section 722 of this title.

(2) Regulations under paragraph (1) shall include the following:

(A) Procedures that States must adopt to ensure that the services provided under this chapter are of sufficient scope and quality, that the costs of such services and the length of time such services are provided are reasonable, and that such services are available in a timely manner.

(B) Procedures that prevent fraud, waste, and abuse.

(C) Procedures to assure that services are provided in the most integrated settings.

(D) Procedures to assure that rehabilitation providers comply with State guarantees, such as—

(i) affirmative action procedures with respect to the employment of individuals with disabilities;

(ii) standards governing community rehabilitation programs and qualified personnel utilized for the provision of vocational rehabilitation services; and

(iii) minimum standards to ensure the availability of personnel, to the maximum extent feasible, trained to communicate in the native language or mode of communication of the client.

(E) Standards to be adhered to by providers to help ensure the integrity of services.

(F) Guidelines for assisting individuals with disabilities and for providing information about available vocational rehabilitation service providers, especially for assisting—

(i) individuals with cognitive and other disabilities who, due to the nature of the disability, require support and assistance in fully implementing the selection and procurement of services; and

(ii) the parents, family members, guardians, advocates, or authorized representatives of the individuals.

(f) Authorization of appropriations

There are authorized to be appropriated to carry out this section such sums as may be necessary.

(Pub. L. 93-112, § 12, as added Pub. L. 95-602, title I, § 122(a)(10), Nov. 6, 1978, 92 Stat. 2985; amended Pub. L. 99-506, title I, § 104, title X, § 1001(a)(4), Oct. 21, 1986, 100 Stat. 1811, 1841; Pub. L. 100-630, title II, § 201(e), Nov. 7, 1988, 102 Stat. 3304; Pub. L. 102-569, title I, § 105, Oct. 29, 1992, 106 Stat. 4361.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former section 780 of this title, prior to repeal by Pub. L. 95-602, title I, § 117, Nov. 6, 1978, 92 Stat. 2977.

AMENDMENTS

1992—Subsec. (a)(2). Pub. L. 102-569, § 105(a), inserted before semicolon at end “, including training for the personnel of community rehabilitation programs, centers for independent living, and other providers of services (including job coaches)”.

Subsecs. (d) to (f). Pub. L. 102-569, § 105(b), added subsecs. (d) and (e) and redesignated former subsec. (d) as (f).

1988—Subsec. (c). Pub. L. 100-630 substituted “the Commissioner’s” for “his”.

1986—Subsec. (a)(5). Pub. L. 99-506, § 104(a), substituted “provide monitoring and conduct evaluations” for “provide staff and other technical assistance to the National Council on the Handicapped”.

Subsec. (b). Pub. L. 99-506, §§ 104(b), 1001(a)(4)(A), designated existing provisions as par. (1), substituted “the duties” for “his duties”, and added par. (2).

Subsec. (c). Pub. L. 99-506, § 1001(a)(4)(B), substituted “as are considered” for “as he considers”.

§ 712. Reports to President and Congress

Not later than one hundred and twenty days after the close of each fiscal year, the Commissioner shall prepare and submit to the President and to the Congress a full and complete report on the activities carried out under this chapter, including the activities and staffing of the information clearinghouse under section 714 of this title. The Commissioner shall annually collect information on each client whose case is closed out in the preceding fiscal year and include the information in the report required by this section. The information shall set forth a complete count of such cases in a manner permitting the greatest possible cross-classification of data. The data elements shall include, but not be limited to, age, sex, race, ethnicity, education, type of disability, severity of disability, key rehabilitation process dates, earnings at time of entry into program and at closure, work status, occupation, cost of case services, types of services provided, including types of rehabilitation technology services provided, types of facilities or agencies which furnished services and whether each such facility or agency is public or private, and reasons for closure. The Commissioner shall take whatever action is necessary to assure that the identity of each client for which information is supplied under this subsection is confidential. Such annual reports shall also include statistical data reflecting services and activities provided individuals during the preceding fiscal year. The annual report shall include an evalua-

tion of the status of individuals with severe disabilities participating in programs under this chapter.

(Pub. L. 93-112, § 13, as added Pub. L. 95-602, title I, § 122(a)(10), Nov. 6, 1978, 92 Stat. 2985; amended Pub. L. 98-221, title I, § 102, Feb. 22, 1984, 98 Stat. 17; Pub. L. 99-506, title I, § 105, Oct. 21, 1986, 100 Stat. 1812; Pub. L. 102-569, title I, §§ 102(p)(4), 106, Oct. 29, 1992, 106 Stat. 4356, 4362.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former section 784 of this title, prior to repeal by Pub. L. 95-602, title I, § 117, Nov. 6, 1978, 92 Stat. 2977.

AMENDMENTS

1992—Pub. L. 102-569 inserted “including types of rehabilitation technology services provided,” after “provided,” in fourth sentence and substituted “disabilities” for “handicaps” in last sentence.

1986—Pub. L. 99-506 substituted “to the President and to the Congress” for “to the President for transmittal to the Congress”, inserted “, including the activities and staffing of the information clearinghouse under section 714 of this title”, and inserted “The annual report shall include an evaluation of the status of individuals with severe handicaps participating in programs under this chapter.”

1984—Pub. L. 98-221 inserted “The Commissioner shall annually collect information on each client whose case is closed out in the preceding fiscal year and include the information in the report required by this section. The information shall set forth a complete count of such cases in a manner permitting the greatest possible cross-classification of data. The data elements shall include, but not be limited to, age, sex, race, ethnicity, education, type of disability, severity of disability, key rehabilitation process dates, earnings at time of entry into program and at closure, work status, occupation, cost of case services, types of services provided, types of facilities or agencies which furnished services and whether each such facility or agency is public or private, and reasons for closure. The Commissioner shall take whatever action is necessary to assure that the identity of each client for which information is supplied under this subsection is confidential.” and inserted “also” after “Such annual reports shall”.

TRANSFER OF FUNCTIONS

For transfer of functions and offices of Secretary and Department of Health, Education, and Welfare, including Rehabilitation Services Administration and Commissioner thereof, under this chapter to Secretary and Department of Education, and for delegation of certain functions of Secretary of Education under this chapter to Assistant Secretary for Special Education and Rehabilitative Services, see sections 3417 and 3441 of Title 20, Education.

REVIEW OF DATA COLLECTION SYSTEM

Section 136 of Pub. L. 102-569 provided that:

“(a) REVIEW.—The Commissioner of the Rehabilitation Services Administration (in this section referred to as the ‘Commissioner’) shall undertake a comprehensive review of the current system for collecting and reporting client data under the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), particularly data on clients of the programs under title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.).

“(b) CONSIDERATIONS.—

“(1) IN GENERAL.—In conducting the review, the Commissioner shall examine the kind, quantity, and quality of the data that are currently reported, taking into consideration the range of purposes that the data serve at the Federal, State, and local levels.

“(2) DATA ELEMENTS.—In conducting the review, the Commissioner shall examine the feasibility of col-

lecting and reporting under the system information, if such information can be determined, regarding—

“(A) other program participation by clients during the 3 years prior to application;

“(B) the number of jobs held, hours worked, and earnings received by clients in the 3 years prior to application to a program under the Rehabilitation Act of 1973 [29 U.S.C. 701 et seq.];

“(C) the types of major and secondary disabilities of clients;

“(D) the dates of the onset of disabilities of clients;

“(E) the severity of the disabilities of clients;

“(F) the sources of referral of clients to programs under such Act;

“(G) the hours worked by clients;

“(H) the size and industry code of the place of employment of clients at the time of entry into such a program and at the termination of services under the program;

“(I) the number of services provided under the programs and the cost of each service;

“(J) the types of public support received by the clients;

“(K) the primary sources of economic support and amounts of public assistance received by the clients before and after receiving the services;

“(L) whether the clients are covered by health insurance from any source and whether health insurance is available through the employment of the client;

“(M) the supported employment status of the client; and

“(N) the reasons for terminating the services.

“(c) RECOMMENDATIONS.—Based on the review, the Commissioner shall recommend improvements in the data collection and reporting system.

“(d) VIEWS.—In developing the recommendations, the Commissioner shall seek views of persons and entities providing or using such data, including State agencies, State Rehabilitation Advisory Councils, providers of vocational rehabilitation services, professionals in the field of vocational rehabilitation, clients and organizations representing clients, the National Council on Disability, other Federal agencies, non-Federal researchers, other analysts using the data, and other members of the public.

“(e) PUBLICATION AND SUBMISSION OF REPORT.—Not later than 18 months after the date of the enactment of this Act [Oct. 29, 1992], the Commissioner shall publish the recommendations in the Federal Register and shall prepare and submit a report containing the recommendations to the appropriate committees of Congress. The Commissioner shall not implement the recommendations earlier than 90 days after the date on which the Commissioner submits the report.”

EXCHANGE OF DATA

Section 137 of Pub. L. 102-569 provided that: “The Secretary of Education and the Secretary of Health and Human Services shall enter into a memorandum of understanding for the purpose of exchanging data of mutual importance, regarding clients of State vocational rehabilitation agencies, that are contained in databases maintained by the Rehabilitation Services Administration, as required under section 13 of the Rehabilitation Act of 1973 (29 U.S.C. 712), and the Social Security Administration, from its Summary Earnings and Records and Master Beneficiary Records. For purposes of the exchange, the Social Security data shall not be considered tax information and, as appropriate, the confidentiality of all client information shall be maintained by both agencies.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 706, 721, 722, 726, 753a, 776, 795g, 795o, 796d-1 of this title.

§ 713. Program and project evaluation

(a) Statement of purpose; standards; persons eligible to conduct evaluations

For the purpose of improving program management and effectiveness, the Secretary, in consultation with the Commissioner, shall evaluate all the programs authorized by this chapter, their general effectiveness in relation to their cost, their impact on related programs, and their structure and mechanisms for delivery of services, using appropriate methodology and evaluative research designs. The Secretary shall establish and use standards for the evaluations required by this subsection. The standards shall, to the extent feasible, for all appropriate programs include standards relating to the increases in employment and earnings, taking into account economic factors in the area to be served by the program, the characteristics of the individuals with disabilities to be served, and the employment outcomes to be attained. Evaluations shall be conducted by persons not immediately involved in the administration of the program or project evaluated.

(b) Opinions of program and project participants

In carrying out evaluations under this section, the Secretary shall obtain the opinions of program and project participants about the strengths and weaknesses of the programs and projects.

(c) Publication of annual summaries

The Secretary shall annually publish summaries of the results of evaluative research and evaluations of program and project impact and effectiveness, including the standards used for such evaluations, the full contents of which shall be available to the Congress and the public.

(d) Data as property of United States

The Secretary shall take the necessary action to assure that all studies, evaluations, proposals, and data produced or developed with Federal funds shall become the property of the United States.

(e) Information from other departments and agencies

Such information as the Secretary may deem necessary for purposes of the evaluations conducted under this section shall be made available upon request of the Secretary, by the departments and agencies of the executive branch.

(f) Longitudinal study

(1) To assess the linkages between vocational rehabilitation services and economic and non-economic outcomes, the Secretary shall continue to conduct a longitudinal study of a national sample of applicants for the services.

(2) The study shall address factors related to attrition and completion of the program through which the services are provided and factors within and outside the program affecting results. Appropriate comparisons shall be used to contrast the experiences of similar persons who do not obtain the services.

(3) The study shall be planned to cover the period beginning on the application of the individuals for the services, through the eligibility de-

termination and provision of services for the individuals, and a further period of not less than 2 years after the termination of services¹

(g) Authorization of appropriations

There are authorized to be appropriated to carry out this section such sums as may be necessary.

(Pub. L. 93-112, § 14, as added Pub. L. 95-602, title I, § 122(a)(10), Nov. 6, 1978, 92 Stat. 2986; amended Pub. L. 98-221, title I, § 103, Feb. 22, 1984, 98 Stat. 17; Pub. L. 99-506, title I, §§ 103(d)(2)(C), 106, title X, § 1001(a)(5), Oct. 21, 1986, 100 Stat. 1810, 1812, 1841; Pub. L. 100-630, title II, § 201(f), Nov. 7, 1988, 102 Stat. 3304; Pub. L. 102-569, title I, §§ 102(p)(5), 107, Oct. 29, 1992, 106 Stat. 4356, 4362.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former section 781 of this title, prior to repeal by Pub. L. 95-602, title I, § 117, Nov. 6, 1978, 92 Stat. 2977.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102-569, § 107(2)(C), inserted “, and the employment outcomes to be attained” before period at end of third sentence.

Pub. L. 102-569, § 107(2)(B), which directed substitution of “, the characteristics” for “and the characteristics” in third sentence, could not be executed because “and the characteristics” did not appear subsequent to amendment by Pub. L. 102-569, § 107(2)(A). See below.

Pub. L. 102-569, § 107(2)(A), substituted “program, the characteristics” for “program and the characteristics” in third sentence.

Pub. L. 102-569, §§ 102(p)(5), 107(1), substituted “Secretary, in consultation with the Commissioner,” for “Commissioner” before “shall evaluate”, “Secretary” for “Commissioner” before “shall establish”, and “disabilities” for “handicaps” after “individuals with”.

Subsec. (b). Pub. L. 102-569, § 107(1)(B), (3), substituted “the Secretary shall obtain the opinions” for “the Commissioner shall, whenever possible, arrange to obtain the opinions”.

Subsecs. (c) to (e). Pub. L. 102-569, § 107(1)(B), substituted “Secretary” for “Commissioner” wherever appearing.

Subsecs. (f), (g). Pub. L. 102-569, § 107(4), added subsec. (f) and redesignated former subsec. (f) as (g).

1988—Subsec. (a). Pub. L. 100-630, § 201(f)(1), inserted comma after “earnings”.

Subsec. (c). Pub. L. 100-630, § 201(f)(2), substituted “evaluations of program” for “evaluation of program”.

1986—Subsec. (a). Pub. L. 99-506, §§ 103(d)(2)(C), 106(a), (c), substituted provision that the Commissioner evaluate all programs authorized by this chapter for the purpose of improving program management and effectiveness, using appropriate methodology and evaluative research designs, for provision that the Secretary evaluate the impact of all authorized programs and their general effectiveness in achieving stated goals, including, where appropriate, comparisons with appropriate control groups composed of persons who had not participated in such programs, “The Commissioner shall establish” for “The Secretary shall establish”, and “individuals with handicaps” for “handicapped individuals”.

Subsec. (b). Pub. L. 99-506, § 106(c), substituted “the Commissioner” for “the Secretary”.

Subsec. (c). Pub. L. 99-506, § 106(b), (c), substituted “The Commissioner” for “The Secretary” and inserted “including the standards used for such evaluations,” after “effectiveness,”.

Subsec. (d). Pub. L. 99-506, § 106(c), substituted “The Commissioner” for “The Secretary”.

¹ So in original. Probably should be followed by a period.

Subsec. (e). Pub. L. 99-506, §1001(a)(5)(B), substituted “upon request of the Commissioner” for “to him, upon request”.

Pub. L. 99-506, §§106(c), 1001(a)(5)(A), made identical amendments, substituting “as the Commissioner may deem necessary” for “as the Secretary may deem necessary”.

1984—Subsec. (a). Pub. L. 98-221 inserted provisions requiring the Secretary to establish and use standards for the evaluations required by this subsection, with such standards, to the extent feasible, for all appropriate programs to include standards relating to the increases in employment and earnings taking into account economic factors in the area to be served by the program and the characteristics of the handicapped individuals to be served.

STUDY ON SPECIAL PROBLEMS AND NEEDS OF HANDICAPPED INDIVIDUALS RESIDING IN RURAL AREAS; REPORT TO PRESIDENT AND CONGRESS

Section 402 of Pub. L. 95-602, as amended by Pub. L. 98-221, title I, §104(c)(2), Feb. 22, 1984, 98 Stat. 19, provided that the Secretary, after consultation with the Commissioner of the Rehabilitation Services Administration, Assistant Secretary of Education for the Office of Special Education and Rehabilitation Services, the Director of the National Institute on Handicapped Research, and other appropriate officials, organizations, and individuals, conduct a study of the special problems and needs of handicapped individuals who reside in rural areas in the United States, and upon the completion of such study, but not later than eighteen months after the date of Nov. 6, 1978, submit the results of such study, together with such recommendations as deemed appropriate to the President, and to the appropriate committees of the Congress.

STUDY ON ELIMINATION OF DISINCENTIVES TO EMPLOYMENT FOR INDIVIDUALS RECEIVING BENEFITS; REPORT TO PRESIDENT AND CONGRESS

Section 403 of Pub. L. 95-602 provided that, in consultation with appropriate Federal departments and agencies, the Secretary conduct a study of possible ways to structure Federal programs providing benefits to handicapped individuals in order to eliminate any disincentives for individuals receiving benefits under such programs to obtain and continue in employment, and upon the completion of such study, but not later than twenty-four months after Nov. 6, 1978, submit the results of such study, together with such recommendations as deemed appropriate to the President and the Congress.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 706 of this title.

§ 714. Information clearinghouse

(a) Establishment; information and resources for individuals with disabilities

The Secretary shall establish a central clearinghouse for information and resource availability for individuals with disabilities which shall provide information and data regarding (1) the location, provision, and availability of services and programs for individuals with disabilities, (2) research and recent medical and scientific developments bearing on disabilities (and their prevention, amelioration, causes, and cures), and (3) the current numbers of individuals with disabilities and their needs. The clearinghouse shall also provide any other relevant information and data which the Secretary considers appropriate.

(b) Information and data retrieval system

The Commissioner may assist the Secretary to develop within the Department of Education a

coordinated system of information and data retrieval, which will have the capacity and responsibility to provide information regarding the information and data referred to in subsection (a) of this section to the Congress, public and private agencies and organizations, individuals with disabilities and their families, professionals in fields serving such individuals, and the general public.

(c) Office of Information and Resources for Individuals with Disabilities

The office established to carry out the provisions of this section shall be known as the “Office of Information and Resources for Individuals with Disabilities”.

(d) Authorization of appropriations

There are authorized to be appropriated to carry out this section such sums as may be necessary.

(Pub. L. 93-112, §15, as added Pub. L. 95-602, title I, §122(a)(10), Nov. 6, 1978, 92 Stat. 2986; amended Pub. L. 96-374, title XIII, §1322, Oct. 3, 1980, 94 Stat. 1499; Pub. L. 98-221, title I, §104(a)(1), Feb. 22, 1984, 98 Stat. 18; Pub. L. 99-506, title I, §103(d)(2)(C), Oct. 21, 1986, 100 Stat. 1810; Pub. L. 102-569, title I, §102(p)(6), Oct. 29, 1992, 106 Stat. 4356.)

AMENDMENTS

1992—Subsec. (a). Pub. L. 102-569, §102(p)(6)(A), (B), substituted “individuals with disabilities” for “individuals with handicaps” wherever appearing and “scientific developments bearing on disabilities” for “scientific developments bearing on handicapping conditions”.

Subsec. (b). Pub. L. 102-569, §102(p)(6)(A), substituted “disabilities” for “handicaps”.

Subsec. (c). Pub. L. 102-569, §102(p)(6)(C), substituted “Individuals with Disabilities” for “the Handicapped”.

1986—Subsecs. (a), (b). Pub. L. 99-506 substituted “individuals with handicaps” for “handicapped individuals” wherever appearing.

1984—Subsec. (b). Pub. L. 98-221 substituted “Department of Education” for “Department of Health, Education, and Welfare”.

1980—Subsec. (a). Pub. L. 96-374, §1322(a), substituted “The Secretary shall establish” for “The Secretary may establish”.

Subsec. (c). Pub. L. 96-374, §1322(b), substituted “The office” for “Any office”.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-374 effective Oct. 1, 1980, see section 1393(a) of Pub. L. 96-374, set out as a note under section 1001 of Title 20, Education.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 706, 712 of this title.

§ 715. Transfer of funds

(a) Except as provided in subsection (b) of this section, no funds appropriated under this chapter for any research program or activity may be used for any purpose other than that for which the funds were specifically authorized.

(b) No more than 1 percent of funds appropriated for discretionary grants, contracts, or cooperative agreements authorized by this chapter may be used for the purpose of providing non-Federal panels of experts to review applications for such grants, contracts, or cooperative agreements.

(Pub. L. 93-112, §16, as added Pub. L. 95-602, title I, §122(a)(10), Nov. 6, 1978, 92 Stat. 2987; amended Pub. L. 99-506, title I, §107, Oct. 21, 1986, 100 Stat. 1812; Pub. L. 102-569, title I, §108(a), Oct. 29, 1992, 106 Stat. 4363.)

AMENDMENTS

1992—Subsec. (b). Pub. L. 102-569 substituted “1 percent” for “one-half of 1 percent”.

1986—Pub. L. 99-506 substituted “Transfer of funds” for “Use of funds” in section catchline and amended text generally. Prior to amendment, text read as follows: “No funds appropriated under this chapter for any research program or activity may be used for any purpose other than that for which the funds were specifically authorized.”

§ 716. State administration

The application of any State rule or policy relating to the administration or operation of programs funded by this chapter (including any rule or policy based on State interpretation of any Federal law, regulation, or guideline) shall be identified as a State imposed requirement.

(Pub. L. 93-112, §17, as added Pub. L. 99-506, title I, §108(a), Oct. 21, 1986, 100 Stat. 1812.)

§ 717. Review of applications

Applications for grants or contracts in excess of \$60,000 in the aggregate authorized to be funded under this chapter, other than grants or contracts for evaluations, dissemination, or conferences, shall be reviewed by panels of experts which shall include a majority of non-Federal members. Non-Federal members may be provided travel, per diem, and consultant fees not to exceed the daily equivalent of the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382 of title 5.

(Pub. L. 93-112, §18, as added Pub. L. 99-506, title I, §109(a), Oct. 21, 1986, 100 Stat. 1813; amended Pub. L. 100-630, title II, §201(g), Nov. 7, 1988, 102 Stat. 3304; Pub. L. 102-569, title I, §108(b), Oct. 29, 1992, 106 Stat. 4363.)

AMENDMENTS

1992—Pub. L. 102-569 substituted “the daily equivalent of the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382” for “the rate provided for grade GS-18 of the General Schedule under section 5332”.

1988—Pub. L. 100-630 inserted comma after “this chapter” and after “conferences”.

§ 718. Carryover

(a) In general

Except as provided in subsection (b) of this section, and notwithstanding any other provision of law—

(1) any funds appropriated for a fiscal year to carry out any grant program under part B or C of subchapter I of this chapter, section 794e of this title (except as provided in section 794e(b) of this title), part C of subchapter VI of this chapter, subpart 2 or 3 of part A of subchapter VII of this chapter, or part B of subchapter VII of this chapter (except as provided in section 796k(b) of this title), including any funds reallocated under any such grant program, that are not obligated and expended by recipients prior to the beginning of the succeeding fiscal year; or

(2) any amounts of program income, including reimbursement payments under the Social Security Act (42 U.S.C. 301 et seq.), received by recipients under any grant program specified in paragraph (1) that are not obligated and expended by recipients prior to the beginning of the fiscal year succeeding the fiscal year in which such amounts were received,

shall remain available for obligation and expenditure by such recipients during such succeeding fiscal year.

(b) Non-Federal share

Such funds shall remain available for obligation and expenditure by a recipient as provided in subsection (a) of this section only to the extent that the recipient complied with any Federal share requirements applicable to the program for the fiscal year for which the funds were appropriated.

(Pub. L. 93-112, §19, as added Pub. L. 102-569, title I, §109(a), Oct. 29, 1992, 106 Stat. 4363; amended Pub. L. 103-73, title I, §104, Aug. 11, 1993, 107 Stat. 719.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (a)(2), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended, which is classified generally to chapter 7 (§301 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

AMENDMENTS

1993—Subsec. (a). Pub. L. 103-73 amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: “Except as provided in subsection (b) of this section, and notwithstanding any other provision of law, any funds appropriated for a fiscal year to carry out any grant program under part B or C of subchapter I of this chapter, section 794e of this title, part C of subchapter VI of this chapter, or subpart 2 or 3 of part A of subchapter VII of this chapter, that are not obligated and expended by recipients prior to the beginning of the succeeding fiscal year shall remain available for obligation and expenditure by such recipients during such succeeding fiscal year.”

§ 718a. Client assistance information

All programs, including community rehabilitation programs, and projects, that provide services to individuals with disabilities under this chapter shall advise such individuals who are applicants for or recipients of the services, or the parents, family members, guardians, advocates, or authorized representatives of the individuals, of the availability and purposes of the client assistance program under section 732 of this title, including information on means of seeking assistance under such program.

(Pub. L. 93-112, §20, as added Pub. L. 102-569, title I, §110(a), Oct. 29, 1992, 106 Stat. 4363; amended Pub. L. 103-73, title I, §105, Aug. 11, 1993, 107 Stat. 719.)

AMENDMENTS

1993—Pub. L. 103-73 substituted “such individuals who are applicants for or recipients of the services” for “such individuals”.

§ 718b. Traditionally underserved populations**(a) Findings**

With respect to the programs authorized in subchapters II through VIII of this chapter, the Congress finds as follows:

(1) Racial profile

The racial profile of America is rapidly changing. While the rate of increase for white Americans is 3.2 percent, the rate of increase for racial and ethnic minorities is much higher: 38.6 percent for Latinos, 14.6 percent for African-Americans, and 40.1 percent for Asian-Americans and other ethnic groups. By the year 2000, the Nation will have 260,000,000 people, one of every three of whom will be either African-American, Latino, or Asian-American.

(2) Rate of disability

Ethnic and racial minorities tend to have disabling conditions at a disproportionately high rate. The rate of work-related disability for American Indians is about one and one-half times that of the general population. African-Americans are also one and one-half times more likely to be disabled than whites and twice as likely to be severely disabled.

(3) Inequitable treatment

Patterns of inequitable treatment of minorities have been documented in all major junctures of the vocational rehabilitation process. As compared to white Americans, a larger percentage of African-American applicants to the vocational rehabilitation system is denied acceptance. Of applicants accepted for service, a larger percentage of African-American cases is closed without being rehabilitated. Minorities are provided less training than their white counterparts. Consistently, less money is spent on minorities than on their white counterparts.

(4) Recruitment

Recruitment efforts within vocational rehabilitation at the level of pre-service training, continuing education, and in-service training must focus on bringing larger numbers of minorities into the profession in order to provide appropriate practitioner knowledge, role models, and sufficient manpower to address the clearly changing demography of vocational rehabilitation.

(b) Outreach to minorities**(1) Policy**

The Commissioner shall develop a policy to mobilize the resources of the Nation to prepare minorities for careers in vocational rehabilitation, independent living, and related services.

(2) Focus

This policy shall focus on—

(A) the recruitment of minorities into the field of vocational rehabilitation counseling and related disciplines; and

(B) financially assisting Historically Black Colleges and Universities, Hispanic-serving institutions of higher education, and other institutions of higher education whose minority enrollment is at least 50 percent to

prepare students for vocational rehabilitation and related service careers.

(3) Plan**(A) Development**

The Commissioner shall develop a plan to provide outreach services and other related activities (such as cooperative efforts) to the entities described in subparagraph (B) in order to enhance the capacity and increase the participation of such entities in competitions for grants, contracts, and cooperative agreements under subchapters I through VIII of this chapter.

(B) Entities

The entities referred to in subparagraph (A) are—

(i) Historically Black Colleges and Universities, Hispanic-serving institutions of higher education, and other institutions of higher education whose minority student enrollment is at least 50 percent;

(ii) nonprofit and for-profit agencies at least 51 percent owned or controlled by one or more minority individuals; and

(iii) underrepresented populations.

(C) Funding

For the purpose of implementing the plan required in subparagraph (A), the Commissioner shall, for each of the fiscal years 1993 through 1997, expend 1 percent of the funds appropriated for the fiscal year involved for carrying out programs authorized in subchapters II through VIII of this chapter, except programs authorized under subchapter IV or V of this chapter.

(4) Effort

The Commissioner shall exercise the utmost authority, resourcefulness, and diligence to meet the requirements of this section.

(5) Report**(A) In general**

Not later than January 31 of each year, starting with fiscal year 1994, the Commissioner shall prepare and submit to Congress a final report on the progress toward meeting the goals of this section during the preceding fiscal year.

(B) Contents

The report shall include—

(i) a full explanation of any progress toward meeting the goals of this section; and

(ii) a plan to meet the goals, if necessary.

(6) Demonstration

In awarding grants, contracts, or cooperative agreements under subchapters I, II, III, VI, VII, and VIII of this chapter, and section 794e of this title, the Commissioner and the Director of the National Institute on Disability and Rehabilitation Research, where appropriate, shall require applicants to demonstrate how they will address, in whole or in part, the needs of individuals with disabilities from minority backgrounds.

(Pub. L. 93-112, §21, as added Pub. L. 102-569, title I, §111(a), Oct. 29, 1992, 106 Stat. 4363;

amended Pub. L. 103-73, title I, §106, Aug. 11, 1993, 107 Stat. 719.)

AMENDMENTS

1993—Subsec. (b)(3) to (6). Pub. L. 103-73 redesignated the par. (3) relating to Commissioner's effort to meet requirements of this section as par. (4) and redesignated former pars. (4) and (5) as (5) and (6), respectively.

SUBCHAPTER I—VOCATIONAL REHABILITATION SERVICES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 706, 718b, 762, 795j, 795l, 795n, 795o, 796, 796c, 2231, 2243 of this title; title 42 sections 422, 1382d.

PART A—GENERAL PROVISIONS

§ 720. Federal grants

(a) Congressional findings; purpose; policy

(1) Congress finds that—

(A) work—

(i) is a valued activity, both for individuals and society; and

(ii) fulfills the need of an individual to be productive, promotes independence, enhances self-esteem, and allows for participation in the mainstream of life in America;

(B) as a group, individuals with disabilities experience staggering levels of unemployment and poverty;

(C) individuals with disabilities, including individuals with the most severe disabilities, have demonstrated their ability to achieve gainful employment in integrated settings if appropriate services and supports are provided;

(D) reasons for the significant number of individuals with disabilities not working, or working at a level not commensurate with their abilities and capabilities, include—

(i) discrimination;

(ii) lack of accessible and available transportation;

(iii) fear of losing health coverage under the medicare and medicaid programs under titles XVIII and XIX of the Social Security Act (42 U.S.C. 1395 et seq. and 1396 et seq.) or fear of losing existing private health insurance; and

(iv) lack of education, training, and supports to meet job qualification standards necessary to enter or retain or advance in employment;

(E) enforcement of subchapter V of this chapter and of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) holds the promise of ending discrimination for individuals with disabilities; and

(F) the provision of vocational rehabilitation services can enable individuals with disabilities, including individuals with the most severe disabilities, to pursue meaningful careers by securing gainful employment commensurate with their abilities and capabilities.

(2) The purpose of this subchapter is to assist States in operating a comprehensive, coordinated, effective, efficient, and accountable pro-

gram of vocational rehabilitation that is designed to assess, plan, develop, and provide vocational rehabilitation services for individuals with disabilities, consistent with their strengths, resources, priorities, concerns, abilities, and capabilities, so that such individuals may prepare for and engage in gainful employment.

(3) It is the policy of the United States that such a program shall be carried out in a manner consistent with the following principles:

(A) Individuals with disabilities, including individuals with the most severe disabilities, are generally presumed to be capable of engaging in gainful employment and the provision of individualized vocational rehabilitation services can improve their ability to become gainfully employed.

(B) Individuals with disabilities must be provided the opportunities to obtain gainful employment in integrated settings.

(C) Individuals with disabilities must be active participants in their own rehabilitation programs, including making meaningful and informed choices about the selection of their vocational goals and objectives and the vocational rehabilitation services they receive.

(D) Families and natural supports can play an important role in the success of a vocational rehabilitation program, if the individual with a disability requests, desires, or needs such supports.

(E) Qualified vocational rehabilitation counselors, other qualified rehabilitation personnel, and other qualified personnel facilitate the accomplishment of the employment goals and objectives of an individual.

(F) Individuals with disabilities and their advocates are full partners in the vocational rehabilitation program and must be involved on a regular basis and in a meaningful manner with respect to policy development and implementation.

(G) Accountability measures must facilitate and not impede the accomplishment of the goals and objectives of the program, including providing vocational rehabilitation services to, among others, individuals with the most severe disabilities.

(b) Authorization of appropriations

(1) For the purpose of making grants to States under part B of this subchapter (other than grants under section 732 of this title) to assist States in meeting the costs of vocational rehabilitation services provided in accordance with State plans under section 721 of this title, there are authorized to be appropriated such sums as may be necessary for fiscal years 1993 through 1997, except that the amount to be appropriated for a fiscal year shall not be less than the amount of the appropriation under this subsection for the immediately preceding fiscal year, plus the amount of the Consumer Price Index addition determined under subsection (c) of this section for the immediately preceding fiscal year.

(2) There are authorized to be appropriated to carry out part C of this subchapter such sums as may be necessary for fiscal years 1993 through 1997.